Supreme Court, U.S.
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No. 92-903

In The

Supreme Court of the United States

October Term, 1992

POSTERS 'N' THINGS, LTD., and
LANA CHRISTINE ACTY,

Petitioners,

vs.

UNITED STATES OF AMERICA,

Respondent.

On Writ Of Certiorari To The United States Court Of Appeals For The Eighth Circuit

JOINT APPENDIX

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA, Plaintiff, v. POSTERS' N THINGS LTD, an Iowa Corporation d/b/a WORLD WIDE IMPORTS, d/b/a FORBIDDEN FRUIT, d/b/a ACTY-MOORE GALLERY; GEORGE MICHAEL MOORE, a/k/a MIKE MOORE, d/b/a G. MICHAEL MOORE ENTERPRISES; AND LANA CHRISTINE ACTY, a/k/a CHRIS ACTY, Defendants.	)	Criminal No. 90-33 (Filed Oct. 17, 1990) SECOND SUPERSEDING INDICTMENT (T. 21, U.S.C., § 857(a)(1)) (T. 21, U.S.C., § 841(a)(1)) (T. 21, U.S.C., § 854) (T. 18, U.S.C., § 1956(a)(1)(A)) (T. 18, U.S.C., § 1957) (T. 18, U.S.C., § 2) (T. 18, U.S.C., § 371) (T. 21, U.S.C., § 853(a)) (T. 18, U.S.C., § 982(a))

THE GRAND JURY CHARGES:

COUNT 1

That on or about August 17, 1989, in the Southern District of Iowa and elsewhere, POSTERS' N THINGS

LTD, d/b/a WORLD WIDE IMPORTS, GEORGE MICHAEL MOORE, and LANA CHRISTINE ACTY, Defendants herein, did knowingly and unlawfully make use of the service of United Parcel Service, an interstate conveyance, as part of a scheme to sell drug paraphernalia, as defined in 21 U.S.C. § 857(d), which was obtained from Fine-Line Products, Inc., of Milwaukee, Wisconsin.

This is in violation of Title 21, United States Code, Section 857(a)(1).

THE GRAND JURY FURTHER CHARGES:

COUNT 2

That on or about November 8, 1989, in the Southern District of Iowa and elsewhere, POSTERS' N THINGS LTD, d/b/a WORLD WIDE IMPORTS, and LANA CHRISTINE ACTY, Defendants herein, did knowingly and unlawfully make use of the service of United Parcel Service, an interstate conveyance, as part of a scheme to sell drug paraphernalia, as defined in 21 U.S.C. § 857(d), which was obtained from Fine-Line Products, Inc., of Milwaukee, Wisconsin.

This is in violation of Title 21, United States Code, Section 857(a)(1).

THE GRAND JURY FURTHER CHARGES:

COUNT 3

That on or about the 26th day of January, 1987, up to and including the 28th day of March, 1990, in the Southern District of Iowa and elsewhere, POSTERS' N THINGS

LTD, d/b/a WORLD WIDE IMPORTS, d/b/a FORBIDDEN FRUIT, d/b/a ACTY-MOORE GALLERY, GEORGE MICHAEL MOORE, and LANA CHRISTINE ACTY, Defendants herein, did willfully and knowingly combine, conspire, confederate, and agree together, and with diverse persons known and unknown to the Grand Jury, to commit an offense against the United States; namely, to knowingly and unlawfully make use of the services of the Postal Service or other interstate conveyance as part of a scheme to sell drug paraphernalia, as defined in 21 U.S.C. § 857(d), in violation of Title 21, United States Code, Section 857(a)(1).

OVERT ACTS

In furtherance of this conspiracy and to effect and accomplish the objects of it, one or more of the conspirators committed the following overt acts:

a. On or about August 17, 1989, the Defendants did cause drug paraphernalia to be shipped and delivered by United Parcel Service, an interstate conveyance, as a result of a telephone order placed to Fine-Line Products, Inc., of Milwaukee, Wisconsin, by George Michael Moore on August 15, 1989;

b. On or about November 8, 1989, the Defendants did cause drug paraphernalia to be shipped and delivered by United Parcel Service, an interstate conveyance, as a result of a telephone order placed to Fine-Line Products, Inc., of Milwaukee, Wisconsin, by LANA CHRISTINE ACTY on November 6, 1989; and

c. On or about January 11, 1988, the Defendants did cause drug paraphernalia (including Toker II's and Mini-Toker's) to be shipped and delivered by United Parcel Service, an interstate conveyance, as a result of an order placed to NALPAC, LTD., of Oak Park, Michigan, by LANA CHRISTINE ACTY on or about January 7, 1988.

This is in violation of Title 18, United States Code, Section 371.

THE GRAND JURY FURTHER CHARGES:

COUNT 4

From on or before the 4th day of November, 1989, up to, and including November 25, 1989, at Des Moines, Polk County, Iowa, in the Southern District of Iowa, the Defendants, LANA C. ACTY, d/b/a POSTERS' N THINGS, d/b/a WORLD WIDE IMPORTS and GEORGE MICHAEL MOORE, d/b/a G. MICHAEL MOORE ENTERPRISES, Defendants herein, did knowingly and intentionally aid and abet Randy Kennedy in the manufacture and distribution of cocaine, a Schedule II controlled substance.

This is in violation of Title 21, United States Code, Section 841(a)(1) and Title 18, United States Code, Section 2.

THE GRAND JURY FURTHER CHARGES:

COUNT 5

That on or before the 1st day of February, 1986, up to and including the 28th day of March, 1990, in the Southern District of Iowa and elsewhere, GEORGE MICHAEL MOORE, and LANA CHRISTINE ACTY, Defendants

herein, having received income derived, directly or indirectly, from multiple violations of 21 U.S.C. § 841(a) and 18 U.S.C. § 2, by aiding and abetting other individuals in the manufacture and distribution of cocaine, a Schedule II controlled substance, did invest, directly and indirectly, such income in the acquisition of an interest in the establishment and the operation of the following enterprises:

POSTERS' N THINGS, LTD., d/b/a WORLD WIDE IMPORTS,
d/b/a FORBIDDEN FRUIT

ACTY-MOORE GALLERY

G. MICHAEL MOORE ENTERPRISES

including, but not limited to, the investment of said income in the inventory, equipment, and operating expenses of said enterprises, the activities of which affected interstate commerce.

This is in violation of Title 21, United States Code, Section 854.

THE GRAND JURY FURTHER CHARGES:

COUNT 6

That on or about August 17, 1989, and November 8, 1989, in the Southern District of Iowa and elsewhere, LANA CHRISTINE ACTY, Defendant herein, did knowingly and willfully conduct, and attempt to conduct, financial transactions affecting interstate commerce, to wit, the transfer and exchange of monetary instruments by, through, and to a financial institution, which involved the proceeds of a specified unlawful activity, that is, the use of an interstate conveyance as part of a scheme to sell drug paraphernalia in violation of 21 U.S.C., § 857(a) and

the aiding and abetting in the manufacture and distribution of a controlled substance in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2, with the intent to promote the carrying on of specified unlawful activity, to wit, violations of 21 U.S.C. §§ 841(a) and 857, and that while conducting or attempting to conduct such financial transactions knew that the property involved in the financial transactions, that is, monetary instruments in the amount of $2,773.33 and $574.09, represented the proceeds of some form of unlawful activity.

This is in violation of Title 18, United States Code, Section 1956(a)(1)(A).

THE GRAND JURY FURTHER CHARGES:

COUNT 7

That on or about March 25, 1989, in the Southern District of Iowa and elsewhere, GEORGE MICHAEL MOORE, and LANA CHRISTINE ACTY, Defendants herein, did knowingly and willfully engage and attempt to engage in a monetary transaction affecting interstate commerce in criminally derived property of a value greater than $10,000, which property was derived from specified unlawful activity, to wit, the use of an interstate conveyance as part of a scheme to sell drug paraphernalia in violation of 21 U.S.C. § 857(a) and the aiding and abetting of the manufacture and distribution of a controlled substance in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2, that is, the Defendants deposited, withdrew, transferred and exchanged a monetary instrument, to wit, a check written on the account of WORLD WIDE IMPORTS, by, through and to a financial institution, that

is, EAST DES MOINES NATIONAL BANK as is more fully described as follows:

CHECK NUMBER:	14336
DATE:	March 25, 1989
PAYEE:	Karl Chevrolet, Inc.
AMOUNT:	$31,430.59
SIGNATORY:	LANA C. ACTY

This is in violation of Title 18, United States Code, Sections 1957 and Title 18, United States Code, Section 2.

THE GRAND JURY FURTHER CHARGES:

COUNT 8

That on or about February 9, 1990, in the Southern District of Iowa and elsewhere, LANA CHRISTINE ACTY, Defendant herein, did knowingly and willfully engage and attempt to engage in a monetary transaction affecting interstate commerce in criminally derived property of a value greater than $10,000, which property was derived from specified unlawful activity, to wit, the use of an interstate conveyance as part of a scheme to sell drug paraphernalia in violation of 21 U.S.C. § 857(a) and the aiding and abetting of the manufacture and distribution of a controlled substance in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2, that is, the Defendant deposited, withdrew, transferred and exchanged a monetary instrument, to wit, a check written on the account of LANA C. ACTY, by, through and to a financial institution, that is, NORWEST BANK DES MOINES N.A., as is more fully described as follows:

CHECK NUMBER:	3986
DATE:	February 9, 1990
PAYEE:	Dean, Witter, Reynolds, Inc.
AMOUNT:	$100,000.00
SIGNATORY:	LANA C. ACTY

This is in violation of Title 18, United States Code, Sections 1957.

THE GRAND JURY FURTHER CHARGES:

COUNT 9

From an unknown date, but commencing at least as early as January 26, 1987, and continuing up to and including March 28, 1990, in the Southern District of Iowa, and elsewhere, the Defendants, GEORGE MICHAEL MOORE and LANA CHRISTINE ACTY, Defendants herein, did knowingly and willfully combine, conspire, confederate, and agree, with each other and with persons known and unknown to the Grand Jury, to commit an offense against the United States, that is, to violate Title 18, United States Code, Section 1956(a).

It was the purpose and object of this conspiracy to knowingly and willfully conduct and attempt to conduct financial transactions affecting interstate commerce which involved the proceeds of a specified unlawful activity, that is, the use of an interstate facility as part of a scheme to sell drug paraphernalia in violation of 21 U.S.C., § 857(a) and the aiding and abetting of the manufacture and distribution of controlled substances in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2, with the intent to promote the carrying on of the specified unlawful activity, and knowing that the transactions were

designed in whole or in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of said specified unlawful activity, and that while conducting and attempting to conduct such financial transactions knew that the property involved in the financial transaction, that is, funds, represented the proceeds of some form of unlawful activity in violation of Title 18, United States Code, Section 1956(a).

OVERT ACTS

In furtherance of this conspiracy and to effect the objects thereof, there were committed, by at least one of the coconspirators herein, in the Southern District of Iowa, at least one of the following overt acts, among others:

a. On or about March 25, 1989, the Defendants engaged in a financial transaction involving a monetary instrument, to wit, a check in the amount of $31,430.59, drawn on the account of WORLD WIDE IMPORTS at EAST DES MOINES NATIONAL BANK, dated March 25, 1989, and payable to Karl Chevrolet, Inc., and conducted or attempted to conduct a financial transaction involving the use of a financial institution which is engaged in, or the activities of which affect, interstate commerce in any way or degree, by causing the withdrawal, payment, and transfer of funds out of this account by this financial institution;

b. On or about February 9, 1990, the Defendants engaged in a financial transaction involving a monetary instrument, to wit, a check in the amount of $100,000.00 drawn on the account of LANA C. ACTY at NORWEST

BANK DES MOINES, N.A., dated February 9, 1990, and payable to DEAN, WITTER, REYNOLDS, INC., and conducted or attempted to conduct a financial transaction involving the use of a financial institution which is engaged in, or the activities of which affect, interstate commerce in any way or degree, by causing the withdrawal, payment and transfer of funds out of this account by this financial institution; and

c. On or about September 25, 1988, the Defendants engaged in a financial transaction involving a monetary instrument, to wit, a check in the amount of $45,000.00 drawn on the account of FORBIDDEN FRUIT (POSTERS' N THINGS, LTD.) at EAST DES MOINES NATIONAL BANK, dated September 25, 1988, and payable to LANA C. ACTY, and conducted or attempted to conduct a financial transaction involving the use of a financial institution which is engaged in, or the activities which affect, interstate commerce in any way or degree, by causing the withdrawal, payment and transfer of funds out of this account by this financial institution.

This is in violation of Title 18, United States Code, Section 371.

THE GRAND JURY FURTHER CHARGES:

COUNT 10

Between on or about February 1, 1986, and March 28, 1990, GEORGE MICHAEL MOORE, LANA C. ACTY, and POSTERS' N THINGS LTD, d/b/a WORLD WIDE IMPORTS, d/b/a FORBIDDEN FRUIT, Defendants herein, engaged in conduct in violation of Title 21, United States Code, Sections 841(a)(1), 854, and Title 18, United

States Code, Section 2, each punishable by imprisonment for more than one year, thereby subjecting to forfeiture to the United States the following property and interests:

1. All of the interests and property of GEORGE MICHAEL MOORE, LANA C. ACTY, and POSTERS' N THINGS LTD, Defendants herein, which was used, and intended to be used, in any manner or part to commit or to facilitate the commission of their violations of Title 21, United States Code, Sections 841(a)(1), 854, and Title 18, United States Code, Section 2, including, but not limited to, the following:

a. All of that lot or parcel of land, together with its buildings, improvements, fixtures, attachments and easements, located at 3500 Eula Drive, Urbandale, Iowa;

b. All of the inventory, equipment, and assets of POSTERS' N THINGS, LTD., d/b/a WORLD WIDE IMPORTS, d/b/a FORBIDDEN FRUIT;

c. All of the inventory, equipment, and assets of ACTY-MOORE GALLERY, including all prints, statues and other art work;

d. All motor vehicles involved in the aforementioned offenses, including:

1) One 1989 red Chevrolet Corvette, VIN 1G1YY3185K5113040, bearing Iowa License Plate UIF001;

2) One 1986 black Mercedes Benz 560SEC M-B, VIN WDBCA45D4GA256819, bearing Iowa license QJK070;

3) One 1986 blue Mercedes Benz 560 SEL, VIN WDBCA39D4GA248742, bearing Iowa License Plate UHJ433;

e. All currency, or its equivalent, currently being held personally or in the accounts of financial institutions in the name of the above-named Defendants which was involved in such offenses;

f. All stocks, bonds, and other securities or commodities held personally or in the accounts of financial institutions in the name of the aforementioned Defendants which was involved in such offenses; and

g. All gold, precious metals, jewelry, or similar investments owned by the aforementioned Defendants which was involved in such offenses.

2. All of the interests and property of GEORGE MICHAEL MOORE, LANA C. ACTY, and POSTERS' N THINGS LTD, Defendants herein, constituting, or derived from, any proceeds that the said Defendants obtained, directly or indirectly, as a result of such violations, including, but not limited to, the interests and property identified in paragraph 1., above.

The aforementioned properties are subject to forfeiture pursuant to Title 21, United States Code, Section 853(a)(1) and (2).

THE GRAND JURY FURTHER CHARGES:

COUNT 11

Between on or about the 26th day of January, 1987, up to and including the 28th day of March, 1990, GEORGE MICHAEL MOORE, LANA C. ACTY, and

POSTERS' N THINGS LTD, d/b/a WORLD WIDE IMPORTS, d/b/a FORBIDDEN FRUIT, Defendants herein, engaged in conduct (as specified in Counts 6 through 9, above) in violation of Title 18, United States Code, Sections 1956, 1957, 371, and 2, each punishable by imprisonment for more than one year, thereby subjecting to forfeiture to the United States pursuant to Title 18, United States Code, Section 982, the following property and interests:

All of the Defendants interest in real and personal property involved in such offense, and all property traceable to such property, and subject to forfeiture pursuant to Title 18, United States Code, Section 982, including, but not limited to the following:

1. All of that lot or parcel of land, together with its buildings, improvements, fixtures, attachments and easements, located at 3500 Eula Drive, Urbandale, Iowa;

2. All of the inventory, equipment, and assets of POSTERS' N THINGS, LTD., d/b/a WORLD WIDE IMPORTS, d/b/a FORBIDDEN FRUIT;

3. All of the inventory, equipment, and assets of ACTY-MOORE GALLERY, including all prints, statues and other art work;

4. All motor vehicles involved in the aforementioned offenses, including:

a. One 1989 red Chevrolet Corvette, VIN 1G1YY3185K5113040, bearing Iowa License Plate UIF001;

b. One 1986 black Mercedes Benz 560SEC M-B, VIN WDBCA45D4GA256819, bearing Iowa license QJK070;

c. One 1986 blue Mercedes Benz 560 SEL, VIN WDBCA39D4GA248742, bearing Iowa License Plate UHJ433;

5. All currency, or its equivalent, currently being held personally or in the accounts of financial institutions in the name of the above-named Defendants which was involved in such offenses;

6. All stocks, bonds, and other securities or commodities held personally or in the accounts of financial institutions in the name of the aforementioned Defendants which was involved in such offenses; and

7. All gold, precious metals, jewelry, or similar investments owned by the aforementioned Defendants which was involved in such offenses.

The aforementioned properties are subject to forfeiture pursuant to Title 18, United States Code, Section 982(a).

A TRUE BILL.

/s/ Charles F. Simon
FOREPERSON

/s/ LINDA R. READE
UNITED STATES ATTORNEY

INSTRUCTION NO. 6

An act is done "knowingly" if the act was done voluntarily, purposely, and understandingly, and not because of mistake, inadvertence, accident or other innocent reason. Knowledge may be proven by a defendant's conduct, and by all the facts and circumstances surrounding the case.

Intent may be established by circumstantial evidence. It rarely can be established by any other means. While eyewitnesses may see and hear and thus be able to give direct evidence of what a defendant does or fails to do, there can be no eyewitness account of the state of mind with which the acts were done or omitted. But what a defendant does or fails to do may indicate intent or lack of intent to commit the offense charged. Upon considering all the evidence adduced at trial, the jury may, but is not required to, draw the inference that a person intended all the consequences that one standing in like circumstances and possessing like knowledge should reasonably have expected to result from any act knowingly done or knowingly omitted by that person.

In determining the issue of intent, the jury is entitled to consider all the facts and circumstances in evidence that may aid in determination of the state of mind.

INSTRUCTION NO. 7

Defendant Posters' N Things, Ltd. is a corporation. A corporation may be found guilty of a criminal offense.

A corporation can act only through its agents, which means its directors, officers, employees, and other persons authorized to act for it.

To find a corporate defendant guilty you must find beyond a reasonable doubt that:

1. Each essential element of the crime charged against the corporation was committed by one or more of its agents;

2. In committing those acts, the agent or agents intended, at least in part, to benefit the corporation; and

3. Each act was within the scope of employment of the agent who committed it.

For an act to be within the scope of an agent's employment, it must relate directly to the performance of the agent's general duties for the corporation. It is not necessary that the act itself have been authorized by the corporation.

If an agent was acting within the scope of the agent's employment, the fact that the agent's act was illegal, contrary to the corporation's instructions or against the corporation's policies will not relieve the corporation of responsibility for the act. You may, however, consider the existence of corporate policies and instructions and the diligence of efforts to enforce them in determining whether the agent was acting with intent to benefit the corporation or within the scope of the agent's employment.

If you find that an act of an agent was not committed within the scope of the agent's employment or with intent to benefit the corporation, then you must consider

whether the corporation later approved the act. An act is approved if, after it is performed, another agent of the corporation, having full knowledge of the act and acting within the scope of that agent's employment and with the intent to benefit the corporation, approves the act by that agent's words or conduct. A corporation is responsible for any act or omission approved by its agents.

INSTRUCTION NO. 17

Although certain testimony and exhibits received into evidence relate primarily to events that occurred before January 26, 1987, this evidence may be considered by you for the limited purposes I told you about at the time this evidence was received. The testimony and exhibits concerning events that occurred before January 26, 1987, may only be considered by you in connection with the following subjects and specific counts of the Indictment:

1. The alleged "knowledge" of the defendants as to the nature, character, and use of the items being sold or offered for sale at the store, referred to in Counts 1, 2, 3, 6, 7, 8, and 9;

2. The alleged "knowledge" of the defendants as to the use of products, by others to manufacture or distribute controlled substances, referred to in Counts 4 and 5; and

3. The existence of an alleged "agreement" referred to in Counts 3 and 9.

Although you may consider this evidence for these limited purposes, you may not find the defendants guilty of any of the charged offenses unless you find that the "knowledge" has been proved as to each defendant during the time periods alleged in each of the nine counts, and that the "agreement" was in existence during the time periods alleged in Counts 3 and 9 of the Indictment.

INSTRUCTION NO. 18

The testimony of the witness Judd Golden concerning what he told the defendants was received for a limited purpose and should be considered by you only for that limited purpose. Mr. Golden's testimony should be considered by you only in connection with the evidence in this case concerning signs in the store and procedures to be followed by persons selling items in the store. The testimony of the witness Golden may be considered by you as an explanation of those signs and the procedures to be followed by persons in the store. The testimony should not be considered by you for any other purpose.

All three defendants assert as a theory of their defense that each acted in good faith in engaging in the conduct that the government alleges constituted criminal acts and violation of criminal laws. Defendants' good faith defense may be considered by you in connection with the charges in the counts of the Indictment that allege each defendant acted with certain knowledge and intent, as otherwise explained in these instructions on the law.

The defendant Lana Christine Acty and the defendant Posters' N Things Ltd. contend that their good faith is shown by their consultation with attorney Judd Golden. However, as I told you during the presentation of testimony of the witness Judd Golden, the advice of counsel is not a defense to the criminal charges in this case. The testimony of the witness Golden may be considered by you on the question of whether signs in the store and procedures to be followed by persons in the store establish the good faith of the defendants and are inconsistent with the elements in the charges of the Indictment concerning the alleged knowledge of the defendants as to the nature, character, and use of the items being sold or offered for sale at the store, and concerning the knowledge of the defendants as to the use of products by others to manufacture or distribute controlled substances. Whether each defendant acted in good faith and without the knowledge required by the counts of the Indictment are issues for you to determine from all of the evidence in the case.

INSTRUCTION NO. 20

Counts 1 and 2 of the Indictment charge the defendants with violating Section 857(a)(1) of Title 21, United States Code, which provides in part:

> It is unlawful for any person . . . to make use of the services of the Postal Service or other interstate conveyance as part of a scheme to sell drug paraphernalia.

INSTRUCTION NO. 21

The crime of the use of an interstate conveyance to sell drug paraphernalia, as charged in Count 1 of the Indictment, has five essential elements, which are:

1. That the items in question constitute drug paraphernalia;

2. That the defendant whose case you are considering knew the nature and character of the items;

3. That the defendant whose case you are considering made use of an interstate conveyance, the United Parcel Service, on or about August 17, 1989;

4. That this use of an interstate conveyance was part of a scheme to sell drug paraphernalia; and

5. That the defendant whose case you are considering made use of the interstate conveyance knowingly as part of a scheme to sell drug paraphernalia.

For you to find the defendant whose case you are considering guilty of the crime of use of an interstate conveyance to sell drug paraphernalia, as charged in Count 1 of the Indictment, the government must prove all of these essential elements beyond a reasonable doubt; otherwise you must find the defendant whose case you are considering not guilty of this crime charged under Count 1.

INSTRUCTION NO. 22

The crime of the use of an interstate conveyance to sell drug paraphernalia, as charged in Count 2 of the Indictment, has five essential elements, which are:

1. That the items in question constitute drug paraphernalia;

2. That the defendant whose case you are considering knew the nature and character of the items;

3. That the defendant whose case you are considering made use of an interstate conveyance, the United Parcel Service, on or about November 18, 1989;

4. That this use of an interstate conveyance was part of a scheme to sell drug paraphernalia; and

5. That the defendant whose case you are considering made use of the interstate conveyance knowingly as part of a scheme to sell drug paraphernalia.

For you to find the defendant whose case you are considering guilty of the crime of use of an interstate conveyance to sell drug paraphernalia, as charged in Count 2 of the Indictment, the government must prove all of these essential elements beyond a reasonable doubt; otherwise you must find the defendant whose case you are considering not guilty of this crime charged under Count 2.

INSTRUCTION NO. 24

The crime of conspiracy as charged in Count 3 of the Indictment, has five essential elements, which are:

1. Two or more persons reached an agreement or came to an understanding to knowingly make use of the services of an interstate conveyance as part of a scheme to sell drug paraphernalia;

2. The defendant whose case you are considering voluntarily and intentionally joined in the agreement or understanding, either at the time it was first reached or at some later time while it was still in effect;

3. At the time the defendant whose case you are considering was a participant in the agreement or understanding, that defendant knew the purpose of the agreement or understanding;

4. The defendant whose case you are considering was a participant in this agreement or understanding at some time during the period from on or about January 26, 1987 to March 28, 1990; and

5. While the agreement or understanding was in effect, a person or persons who had joined in the agreement knowingly did one or more of the following acts:

(1) On or about August 17, 1989, the defendants did cause drug paraphernalia to be shipped and delivered by United Parcel Service, an interstate conveyance, as a result of a telephone order placed to Fine-Line Products, Inc., of Milwaukee, Wisconsin, by George Michael Moore on August 15, 1989;

(2) On or about November 8, 1989, the defendants did cause drug paraphernalia to be shipped and delivered by United Parcel Service, an interstate conveyance, as a result of a telephone order placed to Fine-Line Products, Inc., of Milwaukee, Wisconsin, By Lana Christine Acty on or about November 6, 1989; or

(3) On or about January 11, 1988, the defendants did cause drug paraphernalia (including Toker II's and Mini-Toker's) to be shipped and delivered by United Parcel Service, an interstate conveyance, as a result of an order placed to NALPAC, LTD., of Oak Park, Michigan, by Lana Christine Acty on or about January 7, 1988

for the purpose of carrying out or carrying forward the agreement or understanding.

For you to find the defendant whose case you are considering guilty of the crime of conspiracy to knowingly and unlawfully make use of an interstate conveyance as part of a scheme to sell drug paraphernalia as charged in Count 3 of the Indictment, the government must prove all of these essential elements beyond a reasonable doubt; otherwise you must find the defendant whose case you are considering not guilty of this crime charged under Count 3.

INSTRUCTION NO. 25

Count 4 of the Indictment charges the defendants with violating Title 18, United States Code, section 2 and Title 21, United States Code, section 841(a)(1).

Title 18, United States Code, section 2, provides:

> Whoever commits an offense against the United States, or aids, abets, counsels, commands, induces, or procures its commission, is punishable as a principal.
>
> Whoever willfully causes an act to be done, which if directly performed by him or another would be an offense against the United States, is punishable as a principal.

Title 21, United States Code, section 841(a)(1) states in part:

> It shall be unlawful for any person knowingly or intentionally to manufacture, distribute, . . . a controlled substance.

Section 802 of Title 21 of the United States Code, provides in part:

> The term "distribute" means to deliver . . . a controlled substance.
>
> The term "deliver" means the actual, constructive or attempted transfer of a controlled substance.
>
> The term "manufacture" means the production, preparation, propagation, compounding, or processing of a drug or other substance, either directly or indirectly or by extraction from substances of natural origin, or independently by

> means of chemical synthesis or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of such substance or labeling or relabeling of its containers. . . .

Cocaine is a Schedule II controlled substance under the laws of the United States.

INSTRUCTION NO. 26

The crime of aiding and abetting the manufacture or distribution of cocaine has three essential elements, which are:

1. That on or about the dates November 4 through 25, 1989, Randy Kennedy either intentionally manufactured cocaine or intentionally distributed cocaine;

2. At the time Randy Kennedy manufactured or distributed cocaine, he knew that it was cocaine; and

3. The defendant whose case you are considering aided and abetted Randy Kennedy either in the manufacture or the distribution of cocaine.

For you to find the defendant whose case you are considering guilty of the crime of aiding and abetting Randy Kennedy in the manufacture and distribution of cocaine, as charged in Count 4 of the Indictment, the government must prove all of three essential elements beyond a reasonable doubt; otherwise you must find the defendant whose case you are considering not guilty of this crime charged under Count 4.

INSTRUCTION NO. 27

A defendant may be found guilty of the manufacture or distribution of cocaine even if the defendant did not do every act constituting the offense charged, if the defendant aided and abetted the commission of the manufacture or distribution of cocaine.

In order to have aided and abetted the commission of this offense, the third element listed in Instruction No. 26, the defendant whose case you are considering must, before or at the time the crime was committed:

1. Have known that the crime of the manufacture or distribution of cocaine was being committed or going to be committed by Randy Kennedy; and

2. Have knowingly acted in some way for the purpose of aiding the commission of the manufacture or distribution of cocaine by Randy Kennedy; and

3. Have done so knowingly.

For you to find the defendant whose case you are considering guilty of the manufacture or distribution of cocaine by reason of aiding and abetting, the government must prove beyond a reasonable doubt that all of the essential elements of the manufacture or distribution of cocaine were committed by Randy Kennedy and that this defendant aided and abetted the commission of that crime.

INSTRUCTION NO. 31

The crime of laundering of monetary instruments, as charged in Count 6 of the Indictment, has four essential elements, which are:

1. That the defendant whose case you are considering, on or about August 17, 1989, and November 8, 1989, conducted or attempted to conduct financial transactions affecting interstate commerce, to wit, the transfer and exchange of monetary instruments in the amount of $2,773.33 and $574.09;

2. That the transaction involved the proceeds of a specified unlawful activity, to wit, the sale of drug paraphernalia and the aiding and abetting in the manufacture and distribution of a controlled substance;

3. That the defendant whose case you are considering knew the monetary instruments involved represented the proceeds of an unlawful activity; and

4. That the defendant whose case you are considering intended the financial transactions to promote the sale of drug paraphernalia and to aid and abet in the manufacture and distribution of a controlled substance.

For you to find the defendant whose case you are considering guilty of the crime of laundering of monetary instruments as charged in Count 6 of the Indictment, the government must prove all of these essential elements beyond a reasonable doubt; otherwise you must find the defendant whose case you are considering not guilty of this crime charged under Count 6.

INSTRUCTION NO. 37

The term "drug paraphernalia" as defined in section 857(d), of Title 21, United States Code, means any equipment, product, or material of any kind which is primarily intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance, possession of which is unlawful under the Controlled Substances Act. It includes items primarily intended or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, hashish oil, PCP, or amphetamines into the human body.

The following fifteen sets of items constitute drug paraphernalia:

1. metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
2. water pipes;
3. carburetion tubes and devices;
4. smoking and carburetion masks;
5. roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
6. miniature spoons with level capacities of one-tenth cubic centimeter or less;
7. chamber pipes;
8. carburetor pipes;

9. electric pipes;
10. air-driven pipes;
11. chillums;
12. bongs;
13. ice pipes or chillers;
14. wired cigarette papers; or
15. cocaine freebase kits.

Even if an item does not appear on this list, that item may still constitute drug paraphernalia for purposes of Section 857. In determining whether such an item constitutes drug paraphernalia, in addition to all other logically relevant factors, you may consider the following:

1. instructions, oral or written, provided with the item concerning its use;
2. descriptive materials accompanying the item which explain or depict its use;
3. national and local advertising concerning its use;
4. the manner in which the item is displayed for sale;
5. whether the owner, or anyone in control of the item, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
6. direct or circumstantial evidence of the ratio of sales of the items to the total sales of the business enterprise;

7. the existence and scope of legitimate uses of the item in the community; and
8. expert testimony concerning its use.

INSTRUCTION NO. 38

An item does not constitute drug paraphernalia, however, if that item, in the normal lawful course of business, is imported, exported, transported, or sold through the mail or by any other means, and is traditionally intended for use with tobacco products, including any pipe, paper, or accessory.

For you to find the defendant guilty of the crimes alleged in Counts 1 and 2, the government must prove all of the essential elements beyond a reasonable doubt, including that the items in question were drug paraphernalia, and were not traditionally intended for use with tobacco products.

INSTRUCTION NO. 39

The term "primarily intended," as used in these instructions, does not relate to the knowledge or intent of any particular person or persons. Rather, it is for you to determine the primarily intended use of any item by considering these instructions and all logically relevant factors.

INSTRUCTION NO. 47

A conspiracy is a combination of two or more persons, by concerted action, to accomplish some unlawful purpose, or accomplish some lawful purpose by unlawful means. So, a conspiracy is a kind of "partnership in criminal purposes," in which each member becomes the agent of every other member. The gist of the offense is an agreement to disobey, or to disregard, the law.

Mere similarity of conduct among various persons, and the fact that they may have associated with each other and may have assembled together and discussed common aims and interests, does not necessarily prove the existence of a conspiracy.

However, the evidence need not show that the members entered into any express or formal agreement, or that they directly, by words spoken or in writing, stated between themselves what their purpose was or how they would accomplish their purpose. What the evidence must show beyond a reasonable doubt, in order to prove that a conspiracy existed, is that the members in some way came to a mutual understanding to try to accomplish a common and unlawful plan.

Thus, your first task is to decide whether the government has proved beyond a reasonable doubt that the conspiracies alleged in Counts 3 and 9 existed. If you find that the government has proved that either conspiracy existed, you should next decide whether the government has proved beyond a reasonable doubt that the defendant whose case you are considering willfully became a member of that conspiracy.

If the government has proved beyond a reasonable doubt that the conspiracy under consideration was willfully formed, and that the defendant whose case you are considering willfully became a member of that conspiracy, either at its inception or any time prior to its termination, then you should return a guilty verdict against that defendant even though the conspirators may have failed to accomplish their common object or purpose.

INSTRUCTION NO. 47A

In determining the existence and purpose of the agreements or understandings referred to in Count 3 and in Count 9, you should consider the primary definition of drug paraphernalia previously given you in explaining Counts 1 and 2. You may not consider any items to be part of a scheme to sell drug paraphernalia unless the government has proven beyond a reasonable doubt that the items in question were drug paraphernalia as defined in these instructions.

You may not consider items to constitute drug paraphernalia if the government has not proven the items to be drug paraphernalia in accordance with the definition applicable to that period of time.

For the time period of January 24, 1987 to November 18, 1988, an item did not constitute drug paraphernalia if that item, in the normal lawful course of business, was imported, exported, transported, or sold through the mail or by any other means, and was primarily intended or designed for use with tobacco products, including any

pipe, paper, or accessory by the manufacturer or seller thereof.

For the time period November 18, 1988 to March 28, 1990, an item did not constitute drug paraphernalia if that item, in the normal lawful course of business, was imported, exported, transported, or sold through the mail or by any other means, and was traditionally intended or designed for use with tobacco products, including any pipe, paper, or accessory by the manufacturer or seller thereof.

INSTRUCTION NO. 48

A person may become a member of a conspiracy without full knowledge of all the details of the conspiracy. On the other hand, a person who has no knowledge of a conspiracy, but happens to act in any way which helps carry out the conspiracy, is not a conspirator.

Before you may find that the defendant whose case you are considering or any other person has become a member of a conspiracy, the evidence must show beyond a reasonable doubt that the conspiracy under consideration was knowingly formed, and that the defendant, or other persons alleged to have been members, willfully participated in an unlawful plan, with the intent to help carry out that conspiracy.

To act or participate willfully means to act or participate voluntarily and intentionally, and with specific intent to do something the law forbids, that is to say, to

act or participate with a bad purpose to disobey the law. So if a defendant, or any other person, with understanding of the unlawful character of a plan, knowingly encourages, advises or assists, for the purpose of carrying out the plan, he thereby becomes a willful participant – a conspirator.

One who willfully joins an existing conspiracy is charged with the same responsibility as if he had been one of the originators of the conspiracy.

In deciding whether a conspiracy existed, you should consider the actions and declarations of all of the alleged participants. However, in determining whether the defendant whose case you are considering was a member of that conspiracy, you should consider only that person's acts and statements. You should understand that merely being present at the scene of an event does not prove that a person has joined in an agreement or understanding.

GOVERNMENT EXHIBIT 85 P. 90-33

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PSEUDOCAINE! The Best Selling Incense in the U.S.!!

PSEUDO CAINE INCENSE. HOTTEST SELLING ITEM IN U.S. MADE FROM THE QAT PLANT. SIMILAR TO THE COCO PLANT.
1.$30 1.5gr. BOTTLE $6
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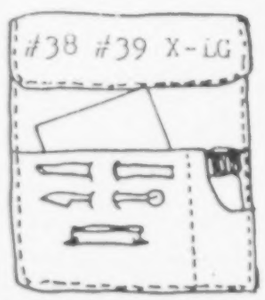
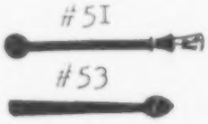
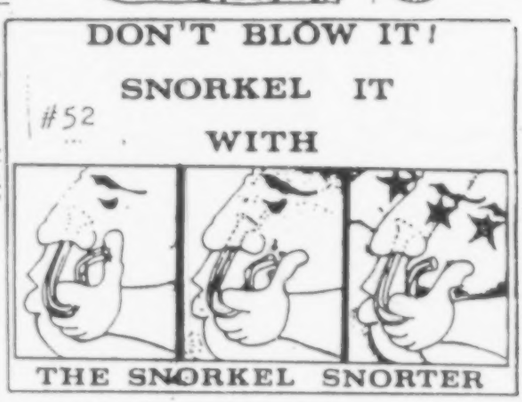
NITROUS OXIDE
14.$10 INFLATOR $2.75
15.$12 ADJ. INFLATOR $3.75
16.$1 HEAVY BALLON $4.20/doz.
17.$7 BOX NITROUS $3
18.CASE OF 36 BOXES $95
19.6 CASES OR MORE $90

N,O CARTRIDGES

GOLD PARTS
SUEDE POUCH
THICK MIRROR







MANNITE
BLUE LADY WHITE STUFF
3.$6 8.5gr. BAR 75¢
4.$18 22.5 BAR $2.50
5.$20 1oz. BOTTLE $4.50

Now You Can Buy
LEGAL STIMULANTS
• SAFE • NO HASSLE
• NO WORRY • NO PROBLEMS
LEGAL STIMULANTS Pick you up like Many Prescription Drugs
100% LEGAL

LEGAL STIMULANTS. THEY LOOK & ACT LIKE BLACKS, YELLOWS, CROSSES ETC. PACKED 1,000 TO A BOTTLE $200 to $600 RETAIL
20.1 to 5 BOTTLES $60
21.6 & UP $50

SNOW ITEMS
36.$6 PLASTIC BULLET SNORTER $1.25
37.$5 MINI COKE KIT $1.95
38.$8 SUEDE COKE KIT GOLD PARTS $2.95
39.$12 lg. SUEDE COKE KIT GOLD PARTS $4
40.$16 lg. LEATHER COKE KIT AGATE $5.95
41.$5 LINE UP COKE KIT $1.85
42.$2.50 SNO SEALS $11/doz.
43.$3 COKE SPOONS $11/doz. asst.
44.$2 HEAVY GOLD BLADE $7.50/doz.
45.$6 SCREEN 2 $2.25 PACKED 6
46.$11 D HYDRO BOTTLE $4
47.$17.50 D BULLET $6.25
48.$1 GLASS SNORTER $4 doz.
49.$6 DRY ICE $2.25
50.$2 SCREW ON FUNNEL CAP $8/doz.
51.$4 GLASS CLEAN & SWEEP SET $15/12
52.$3 SNORKEL SNORTER $11/12
53.75¢ SNO SPOONS $5/25
54.$30 DEERING PREF $12.50
55.$8 GLASS FREE BASE PIPE $2.95
56.$12 GLASS F.B. PIPE DETACHABLE BOWL $4.50
57.$3 GOLD KNIFE SPOON $6/doz.
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1OZ. BOTTLE

CRYSTAL
6.$25 1oz. BOTTLE $4.75
7.$300 1 lb. BOTTLE $30

MANNITOL 1 POUND JAR!!

REG. $40.00

NOW ONLY $20.00

MANNITOL
8.$10 1oz. SUPERIOR CUT $3
9.$20 1oz. BOTTLE $4.50
10.$200 1 lb. BOTTLE $20

BUTYL NITRITE
22.$10 LOCKER ROOM $1

PROCAINE & BENZOCAINE
23.$5 PROCRYSTAL 1gr. $1.60
24.$20 COCO LEAF 3gr. $3.50
25.$100 PURE PROCAINE $15 1/2oz.
26.$100 PURE BENZOCAINE $15 1/2oz.
#23 & 24 ARE MADE OUT OF PROCAINE OR BENZOCAINE & MANNITE.

INOSITOL
(A VITAMIN POWDER)

FREE BASE ITEMS
SNOW TOKER-TECH-CHEMIST
27.$10 8oz. ETHER $2.25
28.$10 8oz. SOLVENT 2 $3.25
29.$5 2oz. SOLVENT 2 $2
30.$3.50 2oz. BASE SOLUTION $1.10
31.$3.50 2oz. AMONIA SOLUTION $1.10
32.$15 CHEMIST FREE BASE KIT $5.25
33.$14 SNOW TOKER FREE BASE KIT $4.50

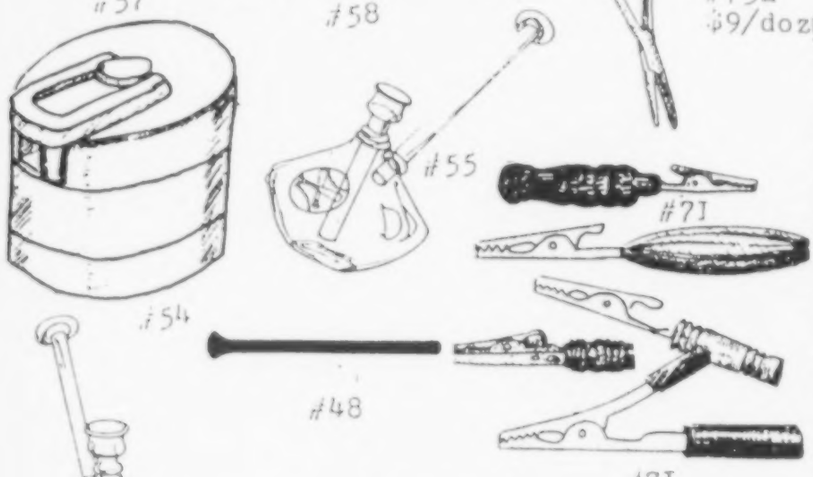
FREE BASE TORCH
34.$20 TORCH $7.50
35.$2.50 CYLINDERS $2.50/3

GOLD BLADE

B INOSITOL FOWDER
12.$125 4oz. BOTTLE $12
13.$400 1 lb. BOTTLE $40

PRICES ON OTHER SIDE

GOLD SPOON GOLD STRAW



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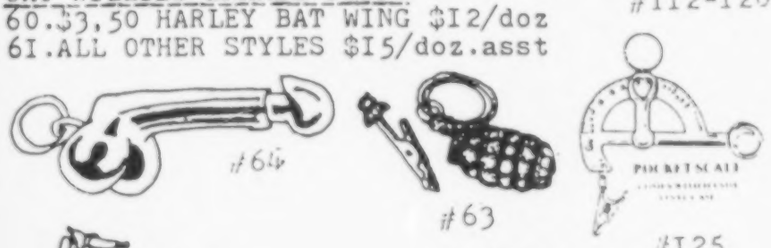
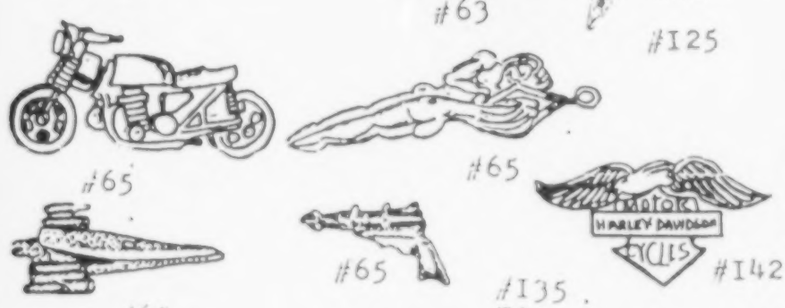
CAT WILLIES HARLEY MIRRORS
59.$22 MIRRORS $7.50 asst.
CAT WILLIES ENAMEL CLIPS
60.$3,50 HARLEY BAT WING $12/doz
61.ALL OTHER STYLES $15/doz.asst





HIDDEN CLIPS
62.$5 UP YOUR ASS FINGER $2
63.$5 GRENADE $2
64.$5 DICK $2
65.ALL OTHER $5 HIDDEN CLIPS & CAST CLIPS.gun,motercycle,car,lovers, lg.helping hand,screw,spark plug etc.$12/doz.asst.

MISC.CLIPS
66.$6 HEMOSTATS $2.25
67.$5 FAT KEY CLIP $9/doz.
68.$5 SWITCH BLADE $2
69.$3 EXTENDO CLIP $1.25
70.$5 EXTENDO CLIP $2
71.75¢ BASIC CLIPS $3/doz.asst.
72.$3 CAST ASST.STYLE HARLEY CLIPS $
73.$1 BASIC CLIPS $4/doz.asst.
74.$2 BASIC CLIPS $8/doz.asst.
75.$3 BASIC CLIPS $12/doz.asst.

INCENSE
$1.75 GONESH STICK $7.50 a doz.
76.#2 77.#4 78.#6
79.#8 80.#10 81.#12
$1 OLFACTORY STICK $4.50 a doz.
82.CHEERY 83.PUSSY 84.STRAWBERRY
85.HERBAL 86.CINNAMON 87.COCONU
88.A.VIOLET 89.RAIN.SAMPLER
90.PATCHOULI 91.B.RASPBERRY
92.JASMINE 93.SANDELWOOD 94.FRANCEN

SPRAYS
95.$4 OZIUM $16.50/doz.

TESTERS
96.$2.50 POT $12/doz.
97.$3 COKE $15/doz.

CLEANERS
98.$7 MARYGIN $18.50/6
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100.J'S STRAWBERRY 50¢24

PAPERS
101.CLUB $9.60/60
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103.EZ WIDER $4.50/25
104.EZ WIDER 1¼ $4.25/24
105.EZ WIDER 1½ $4.25/24
106.MARFIL ARROZ RICE $9.50/100
107.BIG BAMBU $9/50
108.ZIG ZAG FRENCH $4.50/25
109.ZIG ZAG KTCNR FREE $4.50/25
110.ZIG ZAG KTCNR SLOW $4.50/25
111.ZIG ZAG WHITE $4.25/24

ROLLERS RIZLA
112.$1.50 SUPER EXPREES $6.75/10
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114.$3 DWIDE CADET $10.75/10
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116.$7 DWIDE LUXURY $24.50/10
117.$8 PRESENTATION $28/10
118.$3 MINI MAXI $11.25/10
119.$2 EZ WIDER $10/12
120.$2.50 ZIPPY $12/20

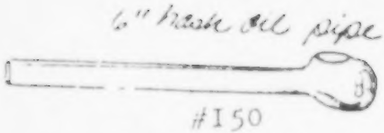
TRAYS
121.$3.50 sm.CLUB TRAYS $1.50
122.$3.50 sm.DESIGN TRAYS $1.50
123.$8 PHOTO TRAYS lg.$3.75
124.$8 LG.CLUB TRAY $3.75

SCALES
125.$2 POCKET SCALES $5.25/doz.
126.OHAUS TRIPLE BEAM ASK
127.OHAUS DIAL GRAM $125
128.$22 COUNTER BALANCE $9.50
129.PORTABEAM CASE $11.50
130.SUPER SCOOP $5.99
131.$12 2gr.SCALE LIKE DEERING $4
132.$15 2gr.DEERING $5.25

ISO MACHINE
133.$140 ISO $95

HOT SELLING ITEMS
134.$4 BABYWOOD ROSE SEEDS $1.50/20
135.50¢ LEAF DECAL $2.25/doz.
136.$2 LEAF CASE GOLD OR SILVER $9/d
137.$1 LEAF FINS $4.25/doz.GOLD OR S
138.$2 LEAF EARRINGS $6/doz.GOLD OR
139.$3 LEAF NECKLACES $11/doz.G OR S
140.$1 lg.HIGH MATCHES $4/doz.
141.50¢ lg.BLACK STASH BAGS $20/100
142.$7 HARLEY CAST NECKLACES $2.50
143.$4 LEATHER LEAF CLIPS $1.50

VIALS
144.75¢ 5/8 CLEAR $2.10/doz.$20/144
145.75¢ 5/8 AMBER $2.10/doz.$20/144
146.$1 1dram CLEAR $2.25/doz.$21/144
147.$1 1dram AMBER $2.25/doz.$21/144
148.$2 5/8 AMBER W/SPOON $9/doz.
149.$2 1dram W/SPOON $9/doz.AMBER



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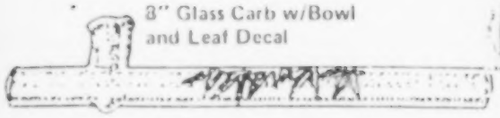
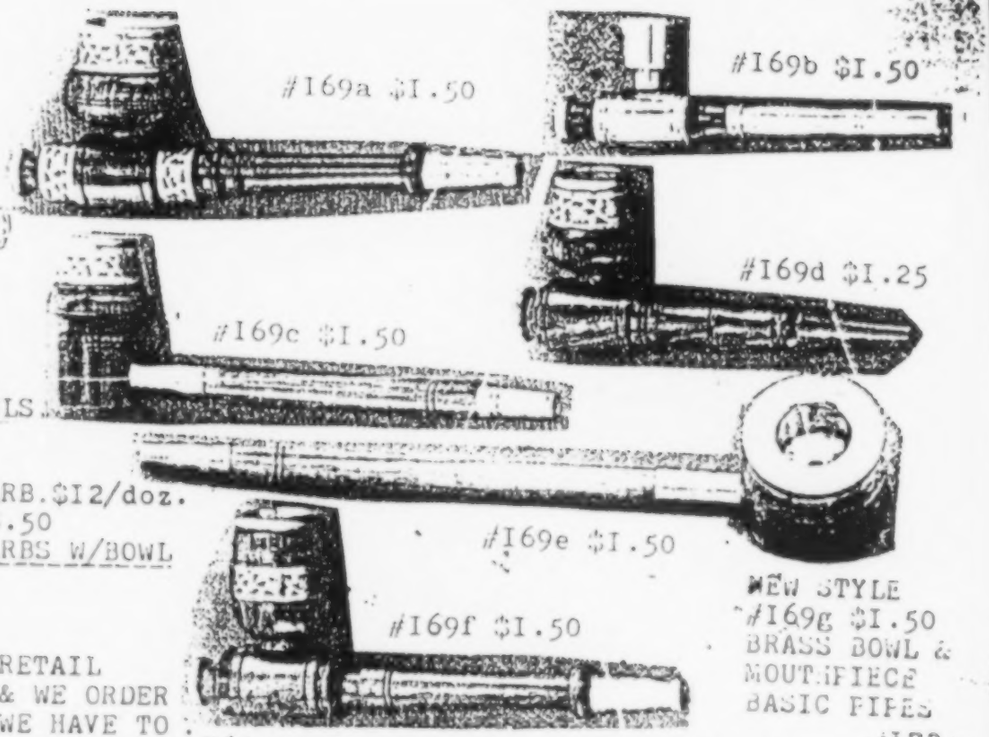


#I52-#I58

GLASS OIL PIPES
I50.$I STRAIGHT $4.50/doz.
I5I.$I.50 CURVE $6.50/doz.
DECAL LEAF GLASS CARBS W/BOWLS
I52.$3.25 4" $I5/doz.
I53.$3.80 6" $I8/doz.
I54.$3.50 6" JOINT HOLDER CARB.$I2/doz.
I55.$I9.50 XL STEAMROLLER $8.50
TOKER-ODYSSEY DECAL GLASS CARBS W/BOWL
I56.$3.50 4" $I8/doz.
I57.$4.25 8" $2I/doz.
I58.$5 I2" $22/doz.
OUR BEST BUYS ARE PIPES.OUR RETAIL STORE SHOWS OVER 300 STYLES & WE ORDER NEW & HOT STYLES EVERY WEEK.WE HAVE TO ORDER LARGE QUANTITIES TO GET THE BEST PRICE & WE WILL START BLOWING OUT ALL OUR EXCESS EVERY WEEK CLOSE TO OUR COST WE WILL SELL THEM IN ASSORTMENTS & WE WILL GUARANTEE EVERY ASSORTMENT.

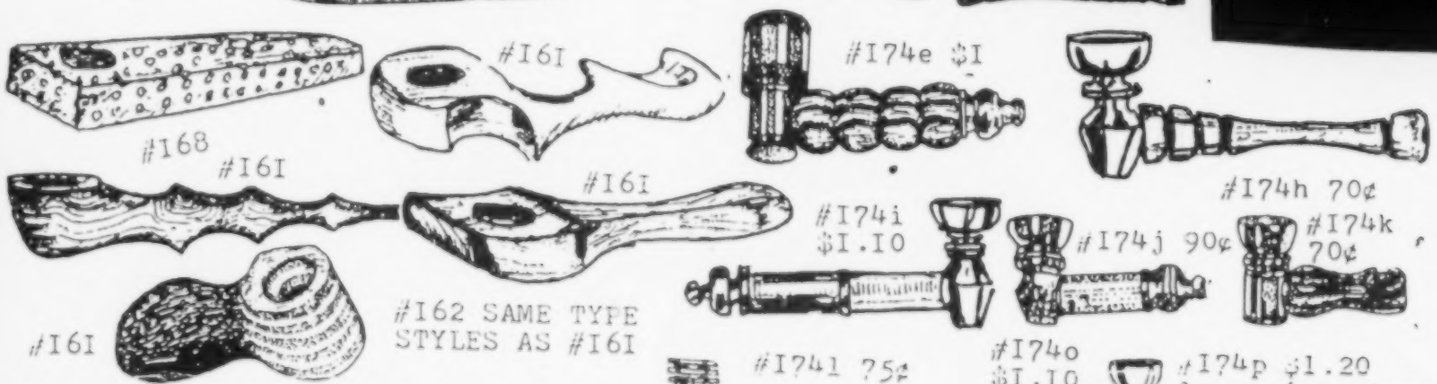


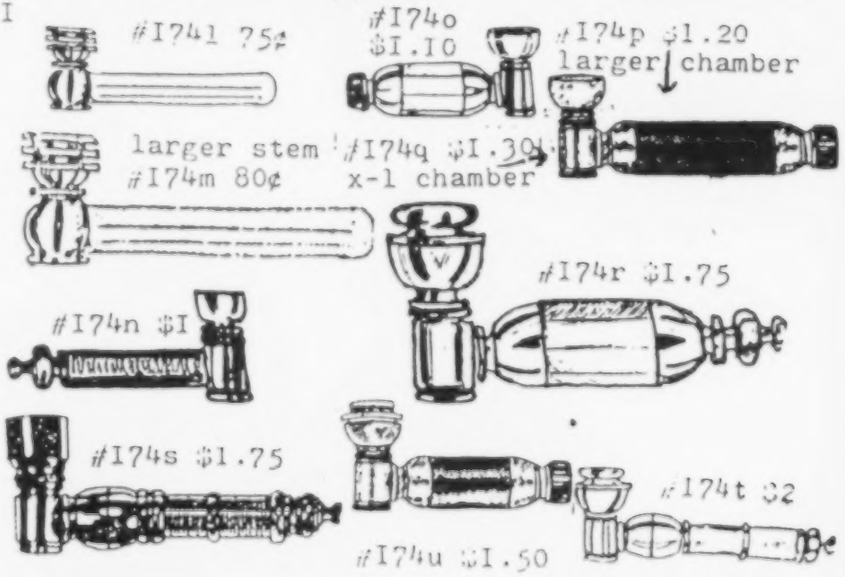
NEW STYLE
#I69g $I.50
BRASS BOWL & MOUTHPIECE BASIC PIPES

I69.SHEESHAM WOOD & BRASS PIPES ONE OF OUR HOTTEST SELLERS.8 STYLES TO $6 RETAIL. $I.50 OR ORDER BY STYLE #
I70.BASIC PIPES TO $3 RETAIL.20 STYLES RAINBOWS,WOODS,PLASTIC ETC. $I8/24
I7I.BASIC PIPES W/METAL MOUTH PIECES TO $5 RETAIL I8 STYLES $24/24
I72.BASIC PIPES W/METAL M.P.& METAL BO'L W/CAP TO $6 RETAIL I7 STYLES $30/24
I73.BASIC PIPES WITH METAL CHAMBERS TO $7 RETAIL I9 STYLES $36/24
I74.BASIC PIPES WITH METAL CHAMBERS & METAL BOWL/CAP 9STYLES TO $8 $42/24
ALL PIPES COME ASSORTED WOOD OR METAL BOWLS.

#I70 to #I74 ASST. OR PICK YOUR OWN STYLES BELOW. THESE ARE SOME OF THE STYLES IN ASST.

FANCY INLAID PIPES



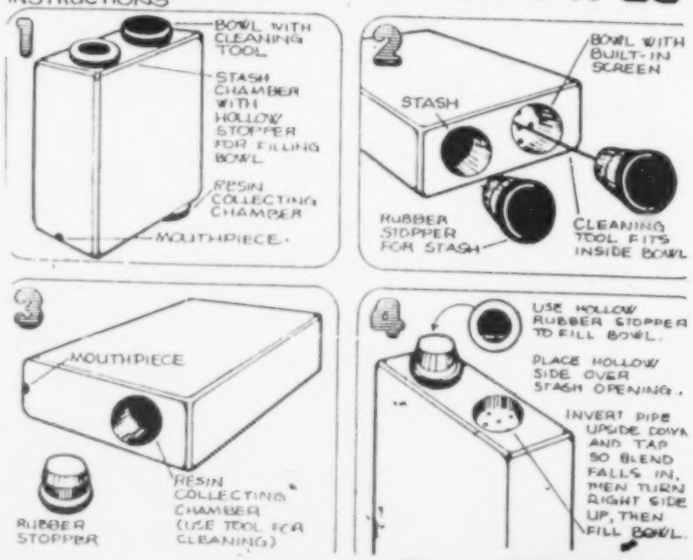


:59.$5 WOOD PIPE W/TURQUOISE INLAY HOT SELLERS 4 STYLES $I.90
:60.$3.50 CANDY STRIPES WOOD PIPES. HOT SELLERS I2 STYLES $I.95
.6I.ROSEWOOD PIPES $4 TO $8 RETAIL II STYLES $I.50
62.EBONY PIPES $4 TO $I0 RETAIL 5 STYLES $I.95
63.BRASS OR PEARL INLAY WOOD PIPES I2 STYLES UP TO $8 RETAIL $I.50
:64.SOAPSTONE INLAYS TO $7 RETAIL I0 STYLES $I.50
:65.OvAL WOOD LEAF DESIGN PIPES 4 STYLES TO $7 RETAIL $2.25
66.$8 lg.BLACK THAI PIPE $2.25
67.$I8 XL BLACK THAI PIPE $7.75
68.$8 FANCY DESIGN WOOD PIPES I2 STYLES $2 HOT SELLERS

175.$3 PINCH HITTERS $16/doz.
176.$12 PINCH HITTER DUG OUT $5.95
177.$4 ZEPPELIN SLUGGER $17/24
178.$3 CONCERT KIT $12/doz.
179.$5 GRASS MASK $2
180.$12 HIGH TECH W/LIGHTER $4.50
181.$4 HANDY HI $15/doz.
182.$3 BIG HIT $1.20
183.$4 POWER HITTER $1.50
184.$3.50 PIPE DREAM $1.50
185.$4 PIPE DREAM $1.70
186.$5 PIPE DREAM $1.90
187.$6 SNEAKY TEAK $2.25
188.$7.50 SNEAKY TEAK $3
189.$10 SNEAKY TEAK $4
190.$12.50 SNEAKY TEAK $5
191.$3 DEALER SM.$28/24
192.$3.50 DEALER MED. $34/24
193.$4 lg.DEALER $38/24

HANDY-HI POCKET PIPES

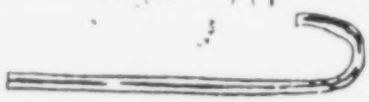
INSTRUCTIONS

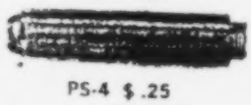

1
BOWL WITH CLEANING TOOL
STASH CHAMBER WITH HOLLOW STOPPER FOR FILLING BOWL
RESIN COLLECTING CHAMBER
MOUTHPIECE
2
STASH
BOWL WITH BUILT-IN SCREEN
RUBBER STOPPER FOR STASH
CLEANING TOOL FITS INSIDE BOWL
3
MOUTHPIECE
RUBBER STOPPER
RESIN COLLECTING CHAMBER (USE TOOL FOR CLEANING)
4
USE HOLLOW RUBBER STOPPER TO FILL BOWL.
PLACE HOLLOW SIDE OVER STASH OPENING.
INVERT PIPE UPSIDE DOWN AND TAP SO BLEND FALLS IN, THEN TURN RIGHT SIDE UP, THEN FILL BOWL.

A3
30¢

B7
40¢

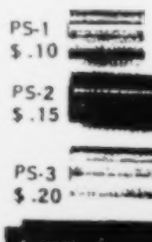
FOSTERS
194.ALL OUR $2.50 TO $4 ROCK,DRUG ETC. FOSTERS.DISPLAY BOX OF 100 ONLY $75




PS-4 $.25

B1 FEMALE
25¢

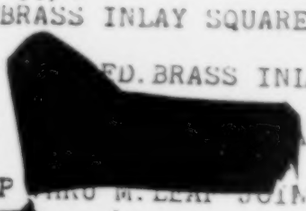
BLACK MARKET T-SHIRTS REG.$39 A DOZ..
195.M,L,XL ASST.SIZES & DESIGNS $30/doz
DESIGNS ON #195 T-SHIRTS.MIDNIGHT TOKER MARY JANE,HASHISH,OPIUM,MUSHROOMS,HARLEY POT HEAD,PERUVIAN,WANNA FUCK,SIT ON FACE

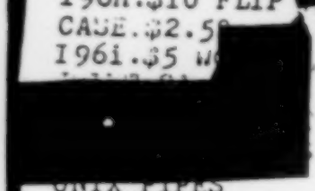

PS-1 $.10
PS-2 $.15
PS-3 $.20
PS-6 $.30
PS-5 $.25

SUPER CLOSE OUT.WOOD OR WOOD BRASS INLAY BOXES TO $8 RETAIL

196a.$3.50 sm.ROUND BOX.FANCY INLAY DESIGN.75¢
196b.$4 sm.TALL ROUND BOX WITH SMALLER BOX INSIDE.$1
196c.$4 ASST.SHAPES PLAIN WOOD BOX,DIAMOND,OVAL,HEART ETC.$6/6
196d.$5 SAME AS ABOVE BUT HAS M. LEAF INLAY.$9/6
196e.$5 med.BRASS INLAY SQUARE BOX.$9/6
196f.$6 FLIP [illegible]ED.BRASS INLAY BOX.$2
196g.$8 FLIP [illegible]Y BOX.$2.25
196h.$10 FLIP [illegible] M. LEAF INLAY CASE.$2.5[illegible]
196i.$5 W[illegible]AIN OR DESIGN sm.
[illegible] AS ABOVE $2.50 med.
[illegible] ABOVE LG. $3

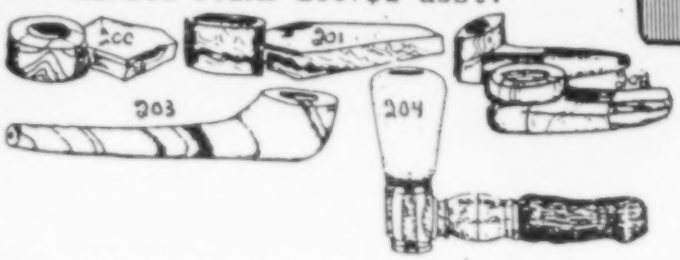
B 196I TO 196K



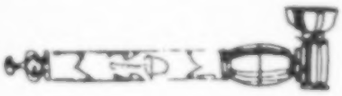


#196H

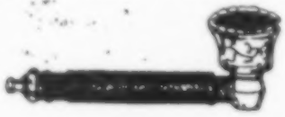
ONYX PIPES
200.$2 RETAIL $10/doz.asst.
201.$3 RETAIL $14/doz.asst.
202.$4 RETAIL $18/doz.asst.
203.$5 RETAIL $24/doz.asst.
204.UP TO $9 RETAIL ONYX BOWLS WOOD. RAINBOW STEMS ETC.$2 asst.


200
201
203
204

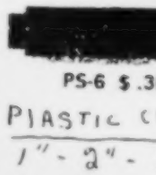
205a.$1 HIGH XMAS CARDS $5/12
206.$5 TOY PANDA BEARS $1.25
BONGS-ASK WHATS IN STOCK
208.$1 RAINBOW DECAL $4.50doz.
209.$2 RAINBOW DECAL $9/doz.
210.ASST.LEAF STEM LEATHER PIPES.TO $8 RETAIL $3.50
211.ASST.LEAF STEM PLASTIC PIPES TO $7 RETAIL $2.50
212.$12 REAL CHICKEN FOOT PIPE.$4.50



213.$4 FANCY BOWL PIPES..$1.75

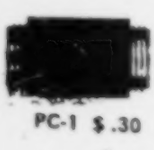


PLASTIC Chambers
1" - 2" - 3 inch


RB2
15¢

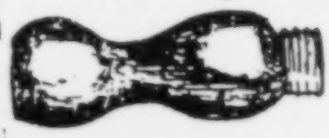
B6
15¢

MIB 20¢


PC-1 $.30
PC-2" 40¢
PC-3" 60¢

S-11 Wood 15¢

B13
25¢


S10 25¢

S7 15¢

Four Bead Sleeve
S3 30¢

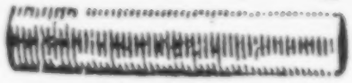
Onyx Bowls
OB-80¢

C2
10¢

S1 35¢

SC3
40¢

Nipples
N1-20¢



C3
10¢

SCREENS
S1..750 $9/1,000
S2..812 $10/1,000
S3.1.00 $14/1,000

C4
10¢

JULY Ist LOWEST PRICES IN U.S.LOWEST PRICES IN U.S.LOWEST PRICES IN U.S.

ALL $I0 RETAIL ½oz.BOTTLES

B-TRONS

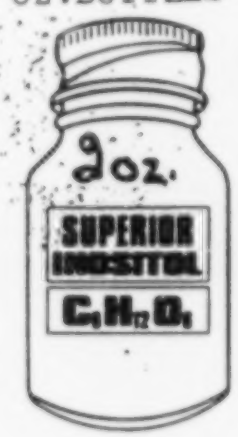
[redacted]

2.$2.50 3.$2.50 4.$2.50 5.$2.50 6.$2.50 7.$2.50 8.$2.50
7/I2 $27/I2 $27/I2 $27/I2 $27/I2 $27/I2 $27/I2

2 oz.BOTTLES-$30 RETAIL.

$I8 RETAIL

TAL



$6 RETAIL

9.$2.50 I0.$2.50 II.$8 I2.$8 I3.$8 I4.$2.50 I5.$I
$27/I2 $27/I2 $84/I2 $84/I2 $84/I2 $95/40 $95/I00

I6bb.SUPERIOR
CAINE ROCK
ALSO ½oz.$20

I6.2gr.$2.50 I6a.2gr.$3 I6b.2gr.$3 I9.I½gr.$4.20
I7.5gr,$6.50 I7a.5gr.$7.50 I7b.5gr.$7.50 20.5gr.$I0.50
I8.Ioz.$35 I8a.Ioz.$40 I8b.Ioz.$40 2I.Ioz.$56

#22-$5.4C
SCORE BY
DIAMOND
CRYSTAL
THEY QUIT
MAKING.
WE THINK
THE BEST
INCENSE
OUT
22a.Ilb.
$800

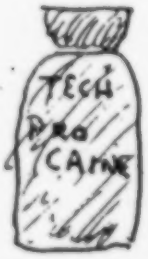
CALL TOLL FREE MON.-TO SAT.I0-8 CENTRAL TIME
SUN.I2 TO 4-FOB DES MOINES IOWA-
REPORT BROKEN MERCHANDISE TO UPS
QUANTITY PRICES ON REQUEST**********

THEY QUIT MAKING THE HOTTEST
SELLING ITEM IN U.S.WE STILL
HAVE STOCK.CALL FOR DETAILS*
****

2.Ioz.$I.75
3.4oz.$3.50
4.8oz.$6.50
5.I6oz.$I2

36.½oz.$2.25
37.Ioz.$4.50
38.2oz.$7.00
39.4oz.$9.00
40.8oz.$I5
4I.I6oz.$25

42.½oz.$6
43.4oz.$20
44.8oz.$40
45.I6oz.$60

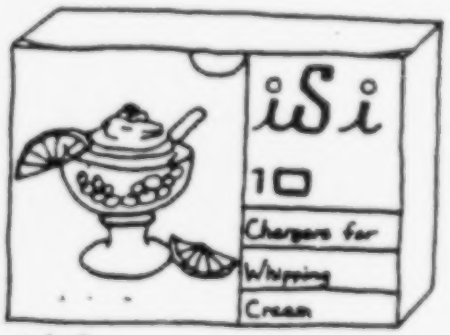


46.½oz.$3
47.Ioz.$5
48.4oz.$8
49.8oz.$I5

50.½oz.$3
5I.4oz.$8
52.8oz.$I5
53.I6oz.$25

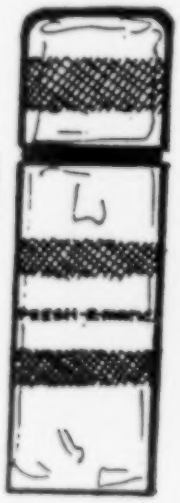
$10 RETAIL-$2.50
3I.ROCKCRYSTAL
$5 RETAIL-$I

54.2gr.$3
55.4gr.$6
56.½oz.$2I

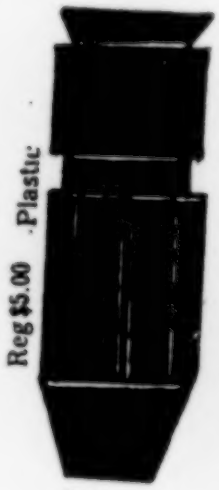


N_2O

57.BOX OF I0 $3.50
58.36 BOXES $99



59.$2.50



60.$2.50

PUNCH BALLS
$35.00 per 100

6I.40¢EACH
62.$35/I00

NEW
MIRACLE CURE ALL SOLVENT
4OZ.
BOTTLE

63.$3
64.$60/24

HEAVY CAST HARLEY NECKLACES TO $I0 RETAIL
8 DESIGNS IN SILVER & GOLD
65.$2 EACH ASST.

NEW!
GOLD BOND SOLVENT
8 OZ. BOTTLE
$6.00 ea.

FASTER DRYING

VIALS
76.SHORT CLEAR $3/I2-$2I/I44
77.SHORT AMBER $3/I2-$2I/I44
78.TALL CLEAR $3/I2-$2I/I44
79.TALL AMBER $3/I2-$2I/I44
80.WITH SPOON 89¢

TOKER ITEMS**********
$6 GOLD SOLVENT $5-$48/I2
$5 SILVER SOLVENT $4-$36/I2
$2 BASE SOLUTION $I.50-$24/24
$2 AMMONIA SOLUTION $I.50-$24/24
$4 ETHER $3-$30/I2
$8 FREE B.KIT $5.25-$54/I2
$I3 SUEDE FREE B.KIT W/PIPE $8
$I SHAKER VIALS $8/I2
I5¢ EYE DROPPERS $3/I2
.BASE SCREENS-ASK**********

SPECIALS**********
8I.$5.50 D HYDRO BOTTLE $2.69
82.$8.75 D BULLET $5.50
83.$I5 DEERING PREP $I2
84.$9 DERRING GR.SCALE $7.50
85.$I.25 SNO SEALS $II/I2
86.GOLD BLADE $9/I2
87.LG.MIRRORS TO $20-$8
88.MED.MIRRORS TO $I5-$5
89.SM.MIRRORS TO $I0-$2.50
90.AUSTRIAN ORIGINAL SNOW PEN I-REG.$I5 NOW $3.50
9I.ALPINE MIST REG.$5 NOW 99¢
92.$6 SUEDE SNUFF KIT $3.99
93.25 LBS BULK MANNITE $I99
94.$3 BULLET SNORTERS 99¢
95.GOLD CHOPPER SPOON $9/I2
96.GOLD TOOTER $9/I2
97.SCREEN Z $2.50

LAST CHANCE TO STOCK UP BEFORE PRICE INCREASE.SALE ENDS FEB.1st.ORDERS OF 100 BOTTLES OR MORE CALL MORNINGS FOR PRICE.MM SALES 3500 EULA DRIVE URBANDALE IA. 50322-MORNINGS 515-276-2705.SEND COMPLETE PAYMENT BY POSTAL MONEY ORDER.ADD $1 PER ITEM FREIGHT.SEND SELF ADDRESSED STAMPED ENVELOPE JAN.31st IF YOU WANT OUR NEXT PRICE LIST OR CALL.

CAPSULES-BOTTLES 1,000

YELLOW		BLACK		BLACK		BLACK		PINK		BOTTLES OF 100	
18-985	$30	18-845	$30	895	$30	18-875	$50	97209-63	$30	BLACK	
18-906	$30	RUS	$30	DEX	$35	CLEARS				18-985	$10
RUS	$30	18-985	$30	127	$35	BROWN	$30	BOTTLES OF 100		127	$10
RJS	$30	18-789	$30	335	$35	BLUE	$35	YELLOW RUS	$10	RUS	$10
10-984	$30	RJS	$30	355	$50	WHITE	$35	YELLOW 18-906	$10	18-789	$10
RJ8	$35	10-845	$30	MOLE	$50	GREEN	$35	YELLOW RJ8	$10	RJS	$10

TABLETS-BOTTLES 1,000

PINK HEART	$25	WHITE CROSS THIN	$20	WHITE/BLUE EGG	$25	BOTTLES OF 100	
PINK FOOTBALL	$25	WHITE CROSS THICK	$20	BLUE/BLUE EGG	$25	WHITE/BLUE EGG	$10
PINK DEX	$25	WHITE CROSS 2 WAY	$23	WHITE/GREEN EGG	$25	BLUE/BLUE EGG	$10
ORANGE BT 72	$25	WHITE CROSS 3 WAY	$25	WHITE/BLUE LG."	$25	PINK HEART	$10
ORANGE DEX	$25	GREEN DEX	$25	BLUE/BLUE LG.""	$25		

SLEEP AIDS-BOTTLES 1,000

714 $35 BLUE # 10 $25

STRONGER LENNON 714 $50 YELLOW 122 $25

WHITE POWDER INCENSE SALE-40% OFF RETAIL

RETAIL	40% OFF
$12 1½gr.PSEUDOCAINE	$7.20
$30 5gr. PSEUDOCAINE	$18
$160 1oz.PSEUDOCAINE	$96
$12 2gr.SUPERIORCAINE	$7.20
$30 5gr.SUPERIORCAINE	$18
$160 1oz.SUPERIORCAINE	$96
$12 2gr.SCORE	$7.20
$160 1oz.SCORE	$96
$12 2gr.MILKY TRAILS	$7.20
$24 4gr.MILKY TRAILS	$14.40
$70 ½oz.MILKY TRAILS	$42
$10 1gr.SUPERCAINE	$6
$12 2.75gr.TOOT	$7.20
$10 1½gr.SUPERTOOT	$6
$10 1gr.ULTRACAINE	$6
$10 3gr.COCO LEAF	$6
$5 PRO CRYSTAL	$3
$10 PRO CRYSTAL 2	$6
$5 ROCK CRYSTAL	$3
$6 RUSH OR LOCKERROOM	$3.60
NATURAL ORGANIC ITEMS	
$12 ZOOM STIMULANT	$7.20
$8 SPIRULINA STIMULANT	$4.80
$12 RELAX-U TRANQUILIZER	$7
SM.AMBER VIALS	$6/12-$50/144
SM.CLEAR VIALS	$6/12-$50/144
LG.AMBER VIALS	$9/12-$60/144
LG.CLEAR VIALS	$9/12-$60/144
$3 VIAL W/SPOON	$1.80
$12 4oz.DMSO SOLVENT	$7.20
$30 DEERING PREP	$18
$2.50 SNO SEALS	$1.50
$10 HARLEY NECKLACES	$6
$4 PINCH HITTER	$2.40

TECHNICIANS PRODUCTS
THE FINEST MADE

RETAIL	40%OFF
$50 ½oz.PROCAINE	$30
$100 1oz.PROCAINE	$60
$200 4oz.PROCAINE	$120
$300 8oz.PROCAINE	$180
$50 ½oz.BENZOCAINE	$30
$200 4oz.BENZOCAINE	$120
$300 8oz.BENZOCAINE	$180
$500 16oz.BENZOCAINE	$300
$100 ½oz.LIDOCAINE	$60
$300 4oz.LIDOCAINE	$180
$500 8oz.LIDOCAINE	$300
$800 16oz.LIDOCAINE	$480

MANNITE OR MANNITOL
SAME THING-BOTTLES

$10 ½oz.	$6
$20 1oz.	$12
$50 4oz.	$30
$75 8oz.	$45
$125 16oz.	$75

BARS-BLUE LADY

$6 8.5gr.	$3.60
$18 22.5gr.	$10.80
$3,125 -25LBS.BULK	$1,875
$15 ½oz.INOSITOL	$9
$30 1oz.INOSITOL	$18
$50 2oz.INOSITOL	$30
$75 4oz.INOSITOL	$45
$125 8oz.INOSITOL	$75
$200 16oz.INOSITOL	$120

$5 DRY ICE $3
$4 KEY CLIP I NONEREMOVABLE $2 $5 REMOVEABLE $3
$12 DUGOUT & P.HITTER $7 $13 INLAID DUGOUT $8

SUPERIOR PRODUCTS-
THE BEST-BOTTLES

RETAIL	40% OFF
$10 ½oz.SUPERIOR CUT	$6
$10 ½oz.SPARKEL CUT	$6
$10 ½oz.SUPERIOR MANNITOL	$6
$10 ½oz.SUPERIOR B INOSITOL	$6
$10 ½oz.B TRONS INOSITOL	$6
$10 ½oz.SUPERIOR INOSITOL	$6
$10 ½oz.SUPERIOR SUPER FINE SPARKEL	$6
$10 ½oz.DIAMOND CRYSTAL	$6
$30 2oz.SUPERIOR INOSITOL	$18
$30 2oz.SUPERIOR SUPER FINE SPARKEL	$18
$30 2oz.SUPERIOR MANNITOL	$18
$5 GOLD BLADE	$3
$5 GOLD CHOPPER SPOON	$3
$5 GOLD STRAW	$3
$15 SNO TOKER F.BASE KIT	$9
$25 SNO TOKER SUEDE F. BASE KIT	$12
$11 D HYDRO BOTTLE	$6.60
$18 DEERING GR.SCALE	$11
$18 D BULLET	$11

MINIMUM ORDER $25

ATTENTION PARAPHERNALIA MFGS.

FORBIDDEN FRUIT IS THE ONLY WAREHOUSE DISTRIBUTOR IN IOWA AND NEBRASKA AND WE HAVE JUST COMPLETED OUR FIRST YEAR IN BUSINESS. OUR GROSS SALES FOR THE YEAR WERE $267,000.

WHEN WE STARTED OUR BUSINESS, NORML GAVE US A COPY OF THEIR MAILING LIST. 33 STORES BETWEEN THE 2 STATES. WE DO WEEKLY MAILINGS TO THIS PROSPECT LIST AND FOLLOW UP BY PHONE. STARTING IN OCTOBER WE ARE PUTTING A ROAD SALESMAN ON TO DEVELOP THE GROCERY STORE CIG. PAPER BUSINESS AND TO HANDLE THE 33 STORES PLUS FIND NEW PROSPECTS.

MOST OF OUR MERCHANDISE HAS BEEN BOUGHT FROM MASTER DISTRIBUTORS AND WE HAVE 2 MAJOR PROBLEMS BY BUYING THIS WAY. DISCOUNT AND CATALOG SHEETS. THE COST TO MAKE A CATALOG FOR 33 PROSPECTS IS VERY COSTLY. THE MASTER DISTRIBUTOR CAN NEVER SUPPLY US WITH CATALOG SHEETS ON YOUR LINE.

WE NEED MFGS. WHO WILL SUPPLY US WITH 40 CATALOG SHEETS AND WORK WITH US ON 40% DISCOUNT OR BETTER ON SMALLER QUANTITIES WHILE WE ARE GROWING. OUR BUYERS START OFF WITH 2 OR 3's OF AN ITEM BUT WE HAVE BEEN ABLE TO DEVELOP CERTAIN ITEMS THAT WE NOW HAVE REORDERS ON OF 10 TO 20 DOZEN EVERY WEEK.

OUR FUTURE PLANS ARE TO BE A COMPLETE 1 STOP DISTRIBUTOR WITH SALESMEN IN ALL MIDWESTERN STATES. WE STOCK $30,000 IN OUR WAREHOUSE NOW AND HOPE TO BE MORE THAN DOUBLE THAT WITHIN 6 MONTHS.

OPEN TERMS WE ARE JUST NOW APPLYING FOR BUT OUR CREDIT AND ASSETS ARE EXCELLENT. COMPANY CHECKS ARE ACCEPTED BY LENTER, FINE LINE, OAT WILLIES, NALPAC. BESIDES THE DISTRIBUTING CO., WE OWN A DISCO, SMALL STEAK CO., PINBALL ARCADE, AND T-SHIRT SHOPS.

BANK REFERENCES ED STERN- NAT. BANK OF DES MOINES 515-225-8282
SAVINGS ACCT.# 570183

GARY JULSON- EAST DES MOINES NAT. 515-265-1431
SAVINGS ACCT.#122-212-4
CHECKING # 13-715-8

NEW ACCOUNT AT FIRST FEDERAL STATE BANK 515-277-6442
CHECKING #01-796-2

IF YOU CANNOT USE US AS A DISTRIBUTOR, STILL PLEASE SEND US 40 CATALOG SHEETS AND WE WILL KEEP BUYING YOUR LINE FROM A MASTER DISTRIBUTOR.

Buy some of your line from other distributors. Think we could do a great job for you, if you need a client in these 2 states.

THANK YOU,
LANA C. ACTY (PRES.)
GEORGE MOORE (SALES MGR, BUYER
FORBIDDEN FRUIT
1510 E. DOUGLAS
DES MOINES, IOWA 50313
515-265-5501
CAN LEAVE MESSAGE- 515-266-9286

GOVERNMENT EXHIBIT 91 Cr. 80-33

PSEUDO CAINE

The Hottest Active Cut In The Nation!

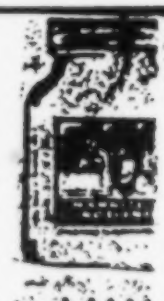
	Retail:	Wholesale:
1/2 grams	$ 11.99	$ 6.00
5 grams	$ 29.99	$15.00
1 oz.	$159.95	$80.00

Now You Can Buy LEGAL STIMULANTS By Mail!

- SAFE • NO HASSLE
- NO WORRY • NO PROBLEMS

LEGAL STIMULANTS Pick you up like Many Prescription Drugs.

100% LEGAL



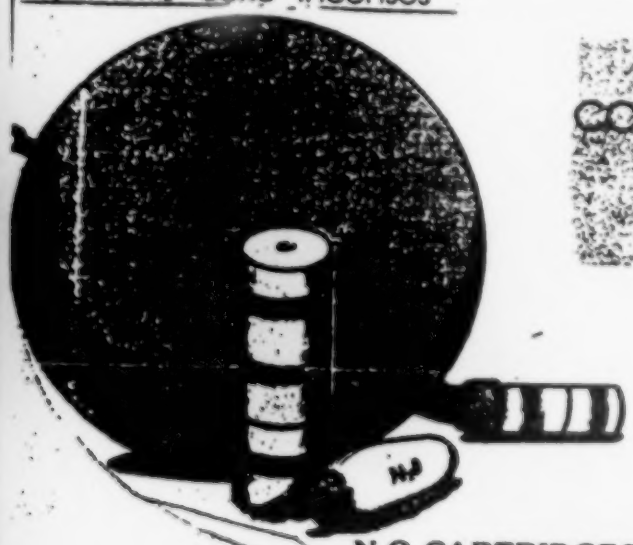
$10 #4-$3

$20 #5 MANNIT
$20 #6 MANNIT
$20 #7 CRYSTA
20 BOTTLES FO

What Is Pseudo Caine?

It's the new cut product everybody who bought Mannitol is now begging for! Pseudo Caine passes all "tests" with flying colors. "Burns" just like the real thing. By far superior to other "synthetic coke incenses"

#12 $250 BOTTLE OF 1,000/$50
XMAS TREES, BLACKS, ROBIN EGGS, YELLOWS, WHITE CROSSES ETC.



N,O CARTRIDGES

$6 #13 85¢
100 FOR $75

#14 $1.10
100 FOR $100

#18 $20-$3
100 FOR $275

40 FOR $

$10 #8 INFLATOR $3
$15 #9 ADJ. INFLATOR $4
$10 CASE OF NITROUS $95
$1 BALLON #11 $3.60/12

#17 WHITE LADY MANNITE
$15.00
Weight 1 lb.

#16
Weight 1/2 lb.

BLUE SNO SEALS

#20 $2.50/95¢
100 FOR $85

CHEMIST OR SNOW TOKER
#21 $10 ETHER SOLVENT $3
#22 $3.50 SOLUTION $1.40
#23 $3.50 AMMONIA SOLUTION $ .40

#24 $15 CHEMIST FREE BASE KIT $6
#25 $14 SNOW TOKER FREE BASE KIT $ .60

GOVERNMENT EXHIBIT 164 Ps. 90-33

FORBIDDEN FRUIT
PO BOX 3170
DES MOINES, IA.
515-266-9286
800-247-7450

PSEUDO CAINE

The Hottest Active Cut In The Nation!

	Retail:	Wholesale:
1/2 grams	$ 11.99	$ 6.00
5 grams	$ 29.99	$15.00
1 oz.	$159.95	$80.00

Now You Can Buy

LEGAL STIMULANTS By Mail!

- SAFE • NO HASSLE
- NO WORRY • NO PROBLEMS

LEGAL STIMULANTS Pick you up like Many Prescription Drugs.

100% LEGAL

SUPERIOR CUT
weight 14.17 grams

$10 #4-$3

MANNI
CONOSCEN
BOTTL
weight
28.
gran

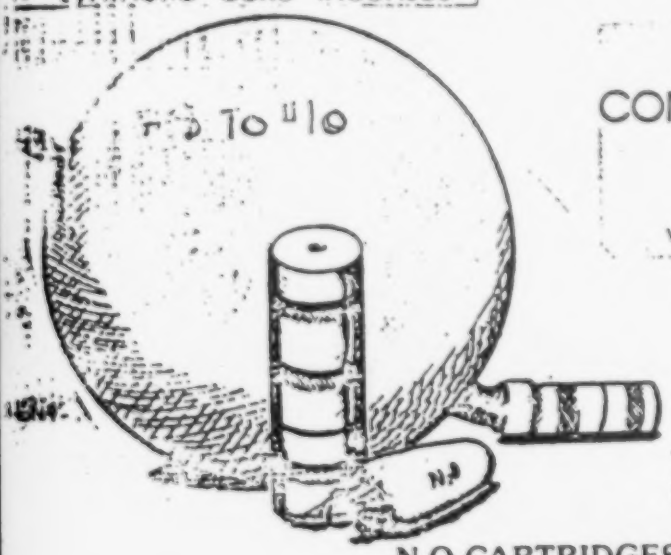
$20 #5 MANNITE
$20 #6 MANNITOL
$20 #7 CRYSTAL

20 BOTTLES FOR

What is Pseudo Caine?

It's the new cut product everybody who bought Mannitol is now begging for! Pseudo Caine passes all "tests" with flying colors. "Burns" just like the real thing. By far superior to other "synthetic coke incenses"

#12 $250 BOTTLE OF 1,000/$50
XMAS TREES, BLACKS, ROBIN EGGS, YELLOWS, WHITE CROSSES ETC.



N,O CARTRIDGES

MANNITE CONOSCENTI BLUE LADY
weight 8.5 grams

$6 #13 .85¢
100 FOR $75

#14 $1.10
100 FOR $100

#18 $20-$3
100 FOR $275

$2.75 #
40 FOR $1

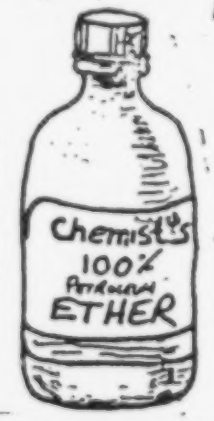
BABY HAWAIIAN WOODROSE SEEDS

Fertile, the peyote of Asia
20 per package
Retail $3 package
$18/doz. ($1.50 pk.)
$60/4 doz. ($1.25 pk.)

#19

BLUE SNO SEALS

#20 $2.50/95¢
100 FOR $85



LA
BL
MAN
CONOSC
weight 22.5

CHEMIST OR SNOW TOKER
#21 $10 ETHER SOLVENT $3
#22 $3.50 SOLUTION $1.40
#23 $3.50 AMMONIA SOLUTION $1

#24 $15 CHEMIST FREE BASE KIT $6
#25 $14 SNOW TOKER FREE BASE KIT $5

$10 #8 INFLATOR $3
$15 #9 ADJ. INFLATOR $4
#10 CASE OF NITROUS $95
$1 BALLON #11 $3.60/12

WHITE LADY MANNITE
$8.00 #16
Weight 1/2 lb.

#17 WHITE LADY MANNITE
$15.00
Weight 1 lb.

FORBIDDEN FRUIT
PO BOX 3170
DES MOINES, IA. 50
515-266-9286
800-247-7450

SUPERIOR MANNITOL
1.½oz.$3-24+$2.50
2.2oz.$9-12+$8.50

SUPERIOR CUT
3.½oz.$3-24+$2.50

SUPERIOR B
4.½oz,$3-24+$2.50

SUPERIOR INOSITOL
5.½oz.$3-24+$2.50
6.2oz.$9-12+$8.50

SUPERFINE SPARKEL
7.½oz.$3-24+$2.50
8.2oz.$9-12+$8.50

SUPERIOR MANNITOL
1.½oz.$3-12 TO 23 $2.75
24 TO 71 $2.50-72+$2.25
2.2oz.$9-6 TO 11 $8.75
12 TO 23 $8.50-24+$8

SUPERIOR MANNITOL
1.½oz.1 TO 11 $3-12 TO 23 $2.75
24 TO 71 $2.50-72 + $2.25
2.2oz.1 TO 5 $9-6 TO 11 $8.75
12 TO 23 $8.50-24 + $8

SUPERIOR CUT
3.½oz.1 TO 11 $3-12 TO 23 $2.75
24 TO 71 $2.50-72 + $2.25

[redacted]

DISTRI OF 12
$2

TERMS-ALL ORDERS-UPS COD CASH OR CERT.
CALL TOLL FREE 10-8 MON.-SAT.
SUNDAY-1 TO 5
ALL PRICES ARE LISTED FOR CASE QUQNTITIES.ADD

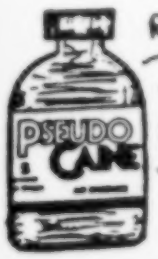
PRICES ON THIS FLYER ARE LISTED FOR CASE

PRICES

FORBIDDEN FRUITS 5th YEAR ANNIVERSARY GET ACQUAINTED SALE

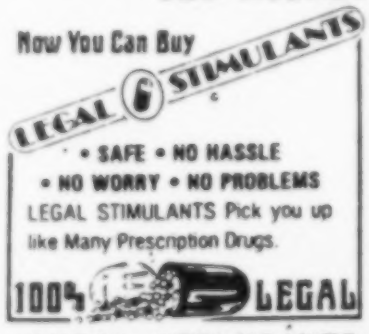
MOST ITEMS UNDER OUR COST-YOU CAN ORDER ONCE FROM THIS FLYER AT THESE PRICES. STATE THAT YOU ARE ORDERING FROM FLYER #53 TO GET THESE PRICES & REQUEST FLYER #52 FOR ALL FUTURE ORDERS. #52 IS OUR REG. ANNIVERSARY SALE FLYER SHOWING 100's OF MORE ITEMS ON SALE TO JAN. 1st WITH DISCOUNTS OF 20% TO 90%. ALL ORDERS OFF THIS FLYER COD CASH OR CERT. CHECK. FOR CO. CHECK WRITE FOR CREDIT APPLICATION.

800-247-7450 FORBIDDEN FRUIT SOLD TO
515-266-9286 IA. DES MOINES, IA. 50313 ADDRESS -



REG $6
$4.75
REG $15
$11.50

PSEUDO CAINE INCENSE. HOTTEST SELLING ITEM IN U.S. MADE FROM THE QAT PLANT. SIMILAR TO THE COCO PLANT.
1. $30 1.5gr. BOTTLE $4.75
2. $100 5gr. BOTTLE $11.50


Now You Can Buy
LEGAL STIMULANTS
• SAFE • NO HASSLE
• NO WORRY • NO PROBLEMS
LEGAL STIMULANTS Pick you up like Many Prescription Drugs.
100% LEGAL

#20
1,000
P.115
For
$50

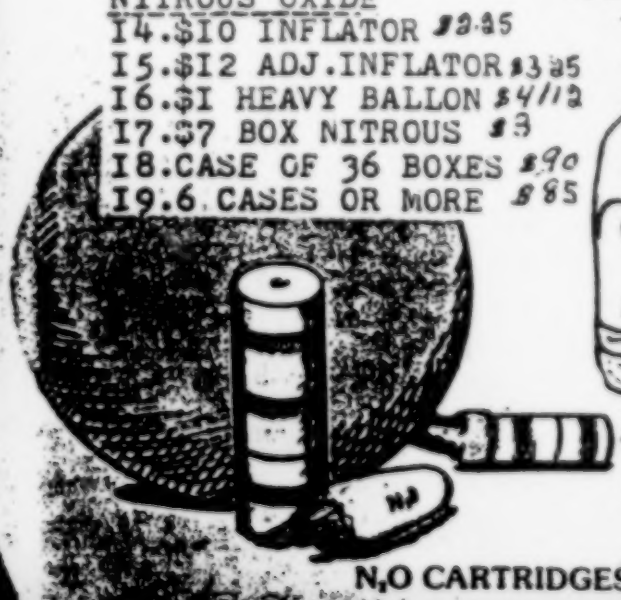
LEGAL STIMULANTS. THEY LOOK & ACT LIKE BLACKS, YELLOWS, CROSSES ETC. PACKED 1,000 TO A BOTTLE
$200 to $600 RETAIL
#20 - $50 a BOTTLE

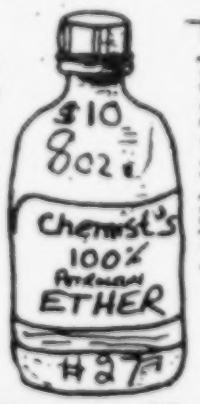
$60/100 #3
6.5¢ EACH
$990/500

MANNITE
BLUE LADY WHITE STUFF
3. $6 8.5gr. BAR $60/100 6.5¢ EACH
4. $18 22.5 BAR $2.25
5. $20 1oz. BOTTLE $4
CRYSTAL
6. $25 1oz. BOTTLE $4.10
7. $300 1 lb. BOTTLE $14
MANNITOL
8. $10 ½oz. SUPERIOR CUT $2.99
9. $20 1oz. BOTTLE $4
10. $200 1 lb. BOTTLE $12
VITAMIN B INOSITOL FOWDER
11. $15 ½oz. BOTTLE $3
12. $125 4oz. BOTTLE $9
13. $400 1 lb. BOTTLE $25

BUTYL NITRITE
22. $10 LOCKER ROOM $1
PROCAINE & BENZOCAINE
23. $5 PROCRYSTAL 1gr. $1
24. $20 COCO LEAF 3gr. $3
25. $100 PURE PROCAINE $4 ½oz.
26. $100 PURE BENZOCAINE $4 ½oz.
#23 & 24 ARE MADE OUT OF PROCAINE OR BENZOCAINE & MANNITE.
#23 IS LIKE ROCK CRYSTAL

NITROUS OXIDE
14. $10 INFLATOR $2.85
15. $12 ADJ. INFLATOR $3.85
16. $1 HEAVY BALLON $4/12
17. $7 BOX NITROUS $3
18. CASE OF 36 BOXES $90
19. 6 CASES OR MORE $85





#27 - $2
#27A - $20/doz.

THE FOLLOWING ARE SNO TOKER ITEMS
28. $10 8oz. SOLVENT 2 $3 - $33/12
29. $5 2oz. SOLVENT 2 $1.85 - $21/12
30. $3.50 2oz. BASE SOLUTION $1.10 $13/12
31. $3.50 2oz. AMONIA SOLUTION $1.10 $13/12
~~32. $15 CHEMIST FREE BASE KIT~~
33. $14 SNOW TOKER FREE BASE KIT $4.50

FREE BASE TORCH
34. $20 TORCH $7
35. $2.50 CYLINDERS $2/3

SNOW ITEMS
36. $6 PLASTIC BULLET SNORTER $12/12
37. $5 MINI COKE KIT $1.60
38. $8 SUEDE COKE KIT GOLD PARTS $2.50
39. $12 lg. SUEDE COKE KIT GOLD PARTS $4
40. $16 lg. LEATHER COKE KIT AGATE $6

MORE SNOW ITEMS
41. $5 LINE UP COKE KIT $1.85
42. $2.50 SNO SEALS $10/12
43. $3 COKE SPOONS $9/doz. GREAT BUY
44. $2 HEAVY GOLD BLADE $6/doz. GREAT BUY
45. $6 SCREEN Z $18/6 GREAT BUY
46. $11 D HYDRO BOTTLE $3.75 GREAT BUY
47. $17.50 D BULLET $6.25
48. $1 GLASS SNORTER $3/doz.
49. $6 DRY ICE $2 GREAT BUY
50. $2 SCREW ON FUNNEL CAP $6.50/doz. GREAT BUY
51. $4 GLASS CLEAN & SWEEP $12.50/doz. GREAT BUY
52. $3 SNORKEL SNORTER $10/doz. GREAT BUY
53. 75¢ SNO SPOONS $5/25 GREAT BUY
54. $30 DEERING PREP $18.50
55. $8 GLASS FREE BASE PIPE $3
56. $12 GLASS F.B. PIPE $4.50
57. $3 GOLD KNIFE SPOON $4.50/doz. GREAT BU
58. $3 GOLD SNORTER $4.50/doz. GREAT BU

OAT WILLIES HARLEY MIRRORS
59. $22 MIRRORS $6.95 Asst.

#60 $3.50
$11/A Doz.

#59 - $22 - $6.9

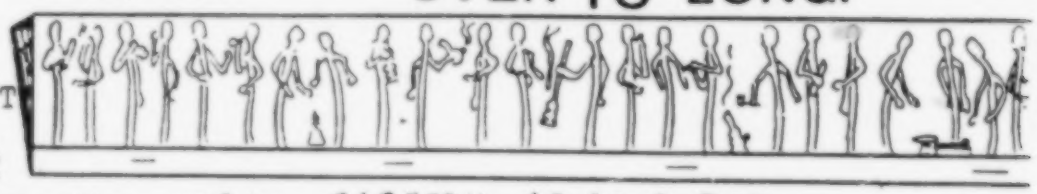
OAT WILLIES ENAMEL CLIPS
60. $3.50 HARLEY BAT WING $1.50
61. ALL OTHER STYLES $15/Doz.

KILLER DEALS

#37 - $5
MINI COK
KIT. $1.

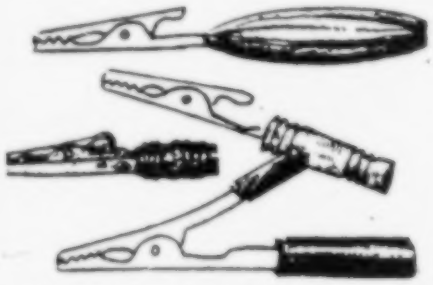
HIDDEN CLIPS
62.$5 UP YOUR ASS FINGER $2
63.$5 GRENADE $2
64.$5 DICK $2
65.ALL OTHER $5 HIDDEN CLIPS & CAST CLIPS.gun,motercycle,car,lovers, lg.helping hand,screw,spark plug etc.XXXX $9 A DOZ. ASST.

MATCHES **OVER 15" LONG!**



#300 - 3/RETAIL $3.60 A DOZ.

#133 - $1/40 150 MATCHES - $8



#71 - 75¢ 4 STYLES ASST. BASIC CLIPS - USE AS XMAS PRESENTS FOR CUSTOMERS OR SELL. $3.40 A DOZ
#71A $12/6 DOZ.
#71B $21/144

#75A BOTTLE OPENER CLIP $7.50 A DOZ.

#67 $.5 KEY $9/DOZ.

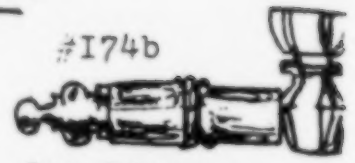
#6983 EXTENDO CLIP → 99¢

#705 EXTENDO CLIP - $1.75

#74 - $2 ASST. STYLE BASIC CLIPS 100's OF STYLES - $8 A DOZ.

#I74a REG $18/DOZ NOW $10/DOZ

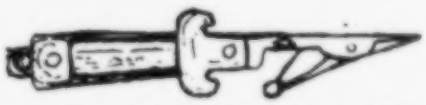
#I74AA - ABOVE WITH CAP BOWL $12/DOZ.



#I74b
REG. $15 A DOZ.
NOW $8.10 A DOZ.
#174BB WITH CAP BOWL $10/D

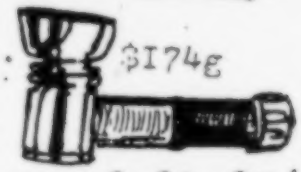
#I74c
#174C - REG. $13/DOZ. NOW $7.50 DOZ.
#174CC WITH CAP BOWL $9/DOZ.

#174E - REG. $18 A DOZ. NOW $9 A DOZ.
#174EE - WITH CAP BOWL - $11/DOZ



#68 - $5 SWITCH BLADE $9/6 $17/DOZ.

#66 - $6 HEMOSTATS $1.90



#I74G

#1746 - REG. $12/DOZ. NOW $7.50/DOZ

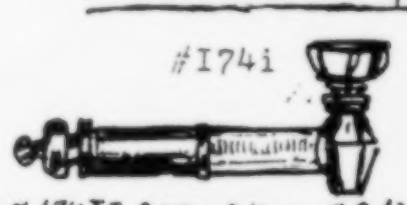
#17466 W/METAL MOUTH PIECE $9/DOZ.

#174666 - ABOVE WITH CAP BOWL $11 DOZ.

#I74h
REG. $12/DOZ.
NOW $7 DOZ.
#174HH WITH BOWL CAP $9/DOZ

#75B $3.50 LEATHER STEM $1.25
#194 $8 LG. CLUB TRAYS - $1.75
#169 SHEESHAM/BRASS PIPES TO $6 - $3/DOZ.
#212 1/2 CHICKEN FOOT PIPES - $3.25

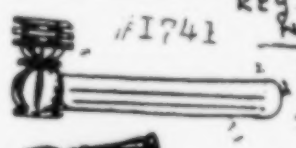
I96a.$3.50 sm.ROUND BOX.FANCY INLAY DESIGN.75¢
I96b.$4 sm.TALL ROUND BOX WITH SMALLER BOX INSIDE.$1
I96c.$4 ASST.SHAPES PLAIN WOOD BOX,DIAMOND,OVAL,HEART ETC.$6/6
I96d.$5 SAME AS ABOVE BUT HAS M.LEAF INLAY.$9/6
I96e.$5 med.BRASS INLAY SQUARE BOX.$9/6
I96f.$6 FLIP TOP MED.BRASS INLAY BOX.$2
I96g.$8 FLIP TOP LG.BRASS INLAY BOX.$2.25



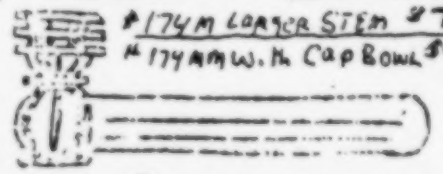
#I74i
#174II PLASTIC M/PIECE $8/DOZ.
#174I REG. $16 NOW $11/DOZ.
#174III $12 DOZ. WITH CAP BOWL

#I74j
REG. $12 NOW $7 DOZ.
#174JJ $9 A DOZ. WITH CAP BOWL

#I74k
REG $10 80 DOZ.
NOW $7 DOZ.
#174KK WITH CAP BOWL $9 DOZ.

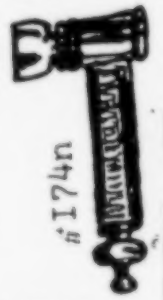


#I74l
REG $11 DOZ.
NOW $6 DOZ.
#174LL W. M Cap Bowl $9 DOZ.



#174M LONGER STEM $7 DOZ.
#174MM W. M Cap Bowl $9 DOZ.

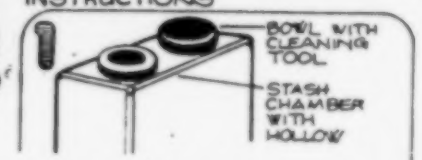
#181 - 34 HANDY HI - $9 DISPLAY OF 12

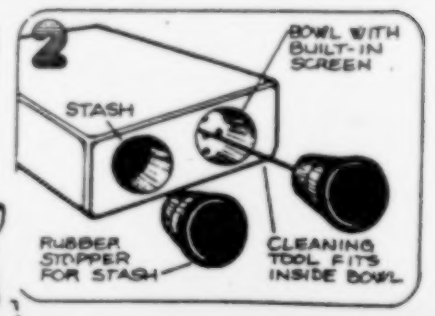


#I74n

HANDY-HI POCKET PIPES*

INSTRUCTIONS



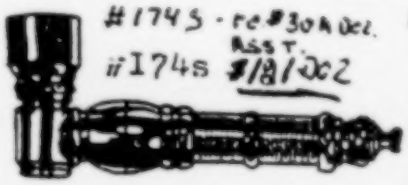


#174N $9 DOZ.
#174NN WITH CAP BOWL $11 DOZ.

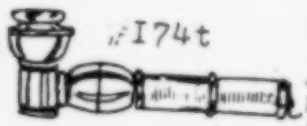
#1740 S.M. Chamber, To $36 A DOZ. ASST. $18 A DOZ.

Boxes Boxes Boxes

#1745 - RE $30 A DOZ. ASST. #I74s $18/DOZ.



#174t - RE $36 A DOZ. ASST. $15 A DOZ.



ALL MERCHANDISE LIMITED QUANTITIES

WHOLESALE-SALE PRICE
PSEUDO CAINE
1.$6 1½gr.$5.40-12 OR MORE $4.50
2.$15 5gr.$13.50-12 OR MORE

WHOLESALE-OUR PRICE
PSEUDO CAINE-25% OFF
1.$6 1½gr.$5.40-12+$4.50
2.$15 5gr.$13.50-12+$11.25
3.$80 1oz.$72-6+$60

WHOLESALE-OUR PRICE
SUPERIOR CAINE-50% OFF
4.$6 2gr.$3.60-12+$3
5.$15 5gr.$9-12+$7.50
6.$80 1oz.$48-6+$40

WHOLESALE-OUR PRICE
SUPERIOR CUT-55% OFF
7.$5 ½oz.$3-24+$2.25
8.$15 2oz.$9-12+$6.75

WHOLESALE-OUR PRICE
SPARKEL CUT-55% OFF
9.$5 ½oz.$3-24+$2.25

WHOLESALE-OUR PRICE
SUPERIOR INOSITOL-55% OFF
10.$5 ½oz.$3-24+$2.25
11.$15 2oz.$9-12+$6.75

WHOLESALE-OUR PRICE
SUPERIOR B-55% OFF
12.$5 ½oz.$3-24+$2.25

WHOLESALE-OUR PRICE
SUPERFINE SPARKLE-55% OFF
13.$5 ½oz.$3-24+$2.25
14.$15 2oz.$9-12+$6.75

WHOLESALE-OUR PRICE
DIAMOND CRYSTAL-55% OFF
15.$5 ½oz.$3-36 + $2.25

WHOLESALE-OUR PRICE
DIAMOND CRYSTAL-55% OFF
15.$5 ½oz.$3-24+$2.25

WHOLESALE-OUR PRICE
DIAMOND SCORE-5)

WHOLESALE-OUR PRICE
DIAMOND SCORE-50% OFF
16.$6 2gr.$4-24+$3.

WHOLESALE-OUR PRICE
ULTRACAINE-40% OFF
17.$5 1gr.$4-24+$3

WHOLESALE-OUR PRICE
SUPERCAINE-40% OFF
18.$5 1gr.$4-24+$3

WHOLESALE-OUR PRICE
COCO LEAF-50% OFF
19.$5 3gr.$3.50-12+$2.50

WHOLESALE-OUR PRICE
TECH PROCAINE-

BEST AVAILABLE COPY

AFTER XMAS SALE-LOWEST PRICES IN THE U.S.USE SALE ENDS DEC.10th YELLOW FLYER
FORBIDDEN FRUIT-800-247-7450-IA.515-266-9286-MINIMUM ORDER $100-SALE ENDS FEB.1st

PSEUDO CAINE-30% OFF
1.1½gr.$4.20
2.5gr.$10.50
3.1oz.$56

SUPERIOR CAINE-40% OFF
4.2gr.$3.60
5.5gr.$8.99
6.1oz.$48

SUPERIOR PRODUCTS-55% OFF
7.½oz.$2.25 MANNITOL
8.½oz.$2.25 SUP.CUT
9.½oz.$2.25 SPARKEL CUT
10.½oz.$2.25 SUP.B
11.½oz.$2.25 SUP.INOSITOL
12.½oz.$2.25 SUPERFINE
13.½oz.$2.25 BLUE LADY

SUPERIOR PRODUCTS 2 oz.-50% OFF
14.2 oz.SUP.SUPERFINE $8
15.2 oz.SUP.INOSITOL $8
16.2 oz.SUP.MANNITOL $8

BLUE LADY BARS
17.8.5gr.$1
18.22.5gr.$2.50
19.25 lbs.BULK $250

TECHNICIANS PRODUCTS
PROCAINE
20.½oz.$3.50
21.1oz.$6
22.4oz.$10.50
23.8 oz.$20

BENZOCAINE
24.½oz.$3
25.4oz.$9
26.8oz.$18
27.16oz.$33

MANNITOL
28.1oz.$1.80
29.4oz.$4.50
30.8oz.$8.25
31.16oz.$15

LIDOCAINE
32.½oz.$7.50
33.4oz.$27
34.8oz.$45
35.16oz.$75

MISC.
36.PROCRYSTAL 99¢
37.PROCRYSTAL @ $2
38.ROCK CRYSTAL 99¢

INOSITOL
39.½oz.$3
40.1oz.$7
41.2oz.$9
42.4oz.$10.50
43.8oz.$20
44.16oz.$38

NITROUS OXIDE
45.BOX CHARGERS $3.75
46.CASE """""""".$100
47.BALLON 35¢
48.INFLATOR $2
49.INFLATOR $2

TOOT PRODUCTS
~~50~~.SUPERTOOT $4.50 #52
~~51~~.TOOT $5 #53
~~52~~.ZOOM $5 #54
~~53~~.RELAX-U $5 #55

DIAMOND PRODUCTS 50% OFF
50.SCORE $3
51.DIAMOND CRYSTAL $2.50

MISC.INCENSE-UP TO 50% OFF
56.SUPERCAINE $3.25
57.ULTRACAINE $3.25
58.COCO LEAF $2.50
59.2gr.MILKY TRAILS $3
60.4gr.MILKY TRAILS $6
61.½oz.MILKY TRAILS $20

HARLEY BONGS
62.SKULL $8.60
63.BAT WING $7.40

HARLEY NECKLACES
64.$2 ASST.
65.$7/12 ASST.

50

AFTER XMAS SALE-LOWEST PRICES IN THE U.S

FORBIDDEN FRUIT-USE YELLOW FLYER & THE FOLLOWING PRICES.SALE ENDS FEB.I0th 82

PSEUDO CAINE-30% OFF
I.I½gr.$4.20
2.5gr.$I0.50
3.Ioz.$56

SUPERIOR CAINE-50% OFF
4.2gr.$3
5.5gr.$7.50
6.Ioz.$40

SUPERIOR PRODUCTS-55% OFF
7.½oz.SUPERIOR MANNITOL $2.25
8.½oz.SUPERIOR CUT $2.50
9.½oz.SPARKEL CUT $2.50
I0.½oz.SUPERIOR B $2.25
II.½oz.SUPERIOR INOSITOL $2.50
I2.½oz.SUPERFINE SPARKEL $2.25
I3.½oz.BLUE LADY MANNITE $2.25
I4.2oz.SUPERFINE SPARKEL $7.50
I5.2oz.SUPERIOR INOSITOL $7.50
I6.2oz.SUPERIOR MANNITOL $7.50
BLUE LADY MANNITE BARS
I7.8.5gr.$I.25-$I00/I00
I8.22.5gr.$2.75-$I00/40
I9.25 lbs BULK B.LADY MANNITE
IN BAG IN BOX.$250.00

TECHNICIANS ITEMS-UP TO 80% OFF
20.½oz.PROCAINE $3.75
2I.Ioz.PROCAINE $6
22.4oz.PROCAINE $I0.25
23.8oz.PROCAINE $20

24.½oz.BENZOCAINE $3
25.4oz.BENZOCAINE $9
26.8oz.BENZOCAINE $I8
27.I6oz.BENZOCAINE $33
28.
28.Ioz.MANNITOL $I.79**********
29.4oz.MANNITOL $4.50
30.8oz.MANNITOL $8.25
3I.I6oz.MANNITOL $I2

32.½oz.LIDOCAINE $7.50
33.4oz.LIDOCAINE $27
34.8oz.LIDOCAINE $45
35.I6oz.LIDOCAINE $75

36.PROCRYSTAL I $I.25
37.PROCRYSTAL 2 $2.50
38.ROCK CRYSTAL $I.25

39.½oz.INOSITOL $2.50**********
40.Ioz.INOSITOL $6.75
4I.2oz.INOSITOL $8.25
42.4oz.INOSITOL $I0.50
43.8oz.INOSITOL $I8

NITROUS OXIDE-PRICE INCREASE
45.BOX OF I0 CHARGERS $4
46.CASE OF 36 BOXES $I08
47.HEAVY BALLON 40¢-$35/I00
48.METAL INFLATOR $2.50
49.PLASTIC ADJUSTABLE INFLATOR $2.50

DIAMOND PRODUCTS-55% OFF
50.SCORE 2gr.BETTER THEN PSEUDOCAINE $3
5I.½oz.DIAMOND CRYSTAL $2.25

TOOT PRODUCTS-UP TO 20% OFF
52.SUPER TOOT $4
53.TOOT $5
54.ZOOM $5
55.RELAX-U $5

MISC.WHITE POWDER INCENSE
56.SUPERCAINE $3.25
57.ULTRACAINE $3.25
58.COCO LEAF $2.75
59.2gr.MILKY TRAILS $3
60.4gr.MILKY TRAILS $6
6I.½oz.MILKY TRAILS $2I

SARAHS FAMILY BONGS
62.HARLEY SKULL $9.90
63.HARLEY DAVIDSON BAT WING $8.I0

HEAVY HARLEY NECKLACES
64.$2 EACH-I2 ASST.DESIGNS

ASST.PIPES INCLUDING NOW-SOAPSTONES ECT.
VALUES TO $5
65.99¢ EACH

MISC.ITEMS
65a.GOLD BLADE $6/I2
66.GOLD CHOPPER SPOON $6/I2
67.GOLD STRAW $6/I2
68.PINCH HITTER $I6/I2
69.DUGOUT $4.80
70.INLAID DUGOUT $5.20
7I.REG.& FREE BASE SCREENS-ASK FOR SIZES
& PRICES

SNO TOKER ITEMS
72.FREE BASE KIT $5.50
73.SUEDE F.BASE KIT W/HAND PIPE $9
74.8oz.SILVER LABEL $3.50-$36/I2
75.8oz.GOLD LABEL $4.50-$48/I2
76.2oz.BASE $I.75-$30/24
77.2oz.AMMONIA $I.75-$30/24
78.EYE DROPPERS $3/I2
79.FREE BASE VIALS $9/I2
80.½oz.B TRONS BRAND INOSITOL $2.25

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA,	:	
Plaintiff,	:	Criminal No. 90-33
	:	(Filed Feb. 4, 1991)
vs.	:	
POSTERS 'N THINGS LTD., an Iowa Corporation, d/b/a WORLD WIDE IMPORTS, d/b/a FORBIDDEN FRUIT, d/b/a ACTY-MOORE GALLERY; GEORGE MICHAEL MOORE, a/k/a MIKE MOORE, d/b/a/ G. MICHAEL MOORE ENTERPRISES; AND LANA CHRISTINE ACTY, a/k/a CHRIS ACTY,	:	
Defendants.	:	

MOTION FOR JUDGMENT OF ACQUITTAL NOTWITHSTANDING THE VERDICT AND MOTION FOR NEW TRIAL AND MOTION FOR JUDGMENT OF ACQUITTAL NOTWITHSTANDING THE VERDICT

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DIVISION I
RENEWED MOTION FOR JUDGMENT OF ACQUITTAL AND FOR JUDGMENT OF ACQUITTAL NOTWITHSTANDING THE VERDICT

1. That the Defendants were convicted following jury trial on Counts 1 through 9 on the 28th day of December, 1990.

2. That both at the close of the Government's case in chief and at the close of all the evidence, Defendants moved for judgment of acquittal as to Counts 1 through 9 and asserted on the record the grounds therefore.

3. The Court granted through and including February 4, 1991 for Defendants to renew their Motion and to file a Motion for New Trial.

4. That the Defendants hereby reassert their Motion for Judgment of Acquittal in its entirety, as previously raised, and further incorporate by reference as though fully set out herein the grounds, arguments and record previously urged in support of said Motion.

WHEREFORE, the Defendants pray that the Court grant their Motion for Judgment of Acquittal as to each and every Count alleged in the Indictment or for such specific relief as the Court may grant as to any particular Count.

DIVISION II
MOTION FOR NEW TRIAL

COME NOW the Defendants and for their Motion for New Trial, pursuant to Rule 33, state as follows:

1. That Defendants hereby incorporate as though fully set out herein Paragraphs 1 through 3 of Division I of this combined motion.

2. That the Court should, in the interest of justice, grant Defendants a new trial as to each and every count, on the following grounds:

A. That the Trial Court excused on December 7, 1990, from further jury service, the entirety of the selected petit jury in the case entitled *U.S. v. Goddard,* Criminal No. 90-101. The Court excused said jury from further service in violation of 28 U.S.C. Section 1866(c). By Order entered December 14, 1990, the Court ordered the Clerk to return the jurors names to the list. None of the illegally excused jurors were part of the array available for jury selection by these Defendants on December 10, 1990. The actions, as aforesaid, were in violation of the Defendants' right to receive a fair trial under the United States Constitution; denied to each Defendant its right to a fair and impartial jury, and was in violation of the Defendants' rights to fundamental fairness. In support thereof, see

Exhibit "A" attached hereto and by this reference made a part hereof.

B. The Court erred in applying an "objective" rather than "subjective" standard to items listed in Section 21 U.S.C. 857(d) as evidenced by jury Instructions No. 37 and No. 39.

C. The Court erred in receiving in evidence, over proper and timely objection by Defendants, exhibits recovered from Defendants' home, business or other sites such as flyers, magazines, catalogues, etc. that clearly were irrelevant and remote in time to any issue in this cause. These items were received solely on the "relevancy" basis of the Defendants' "knowledge" as to items of supposed drug paraphernalia in spite of the fact that the Court instructed (Instruction No. 39) that the knowledge of the accused is irrelevant.

D. The Court erred in receiving in evidence over proper and timely objection by the Defendants, Exhibit 100B in that the same had no proper foundation, was irrelevant and in violation of F.R.E. 403.

E. The Court erred in giving Instruction No. 18 concerning the testimony of the witness Judd Golden and the Court's consequent failure to give Defendants' proposed instruction dealing with said testimony, all serving to deny Defendants a defense to which they were entitled to have weighed by the jury.

F. The Court erred in giving Instruction No. 36, dealing with Count 9 for the reason that said Instruction does not require the Government to prove, as essential elements of the offense, all of the specified unlawful

activity alleged in Count 9 of the Indictment, to wit, 21 U.S.C. Section 857, 21 U.S.C. Section 841 (a)(1), 18 U.S.C. Section 2.

G. The Court erred in submitting Counts 4, 5 and 9, in particular, for consideration by the jury. The Government had not established a prima facie case with respect to those Counts and their submission by the Court colored the jury's deliberation and determination as to all the Counts of the Indictment.

H. The Court erred in receiving, over proper and timely objection, the "expert" testimony of Government witness Semesky. Said witness was permitted to testify without being properly qualified; further, the opinions offered by said witness were impermissible legal conclusions, were not of an aid to the trier of fact and in all respects violative of F.R.E. 702 and 704.

I. That the Government's witnesses who applied U.S.C. Section 857 under search and seizure warrants consistently identified Government's Exhibit 92A as the applicable law of the case. Government's Exhibit 92A was the original Federal Mail Order Drug Paraphernalia Control Act as passed in October, 1986 with an effective date of January 28, 1987. The original Act was amended by Congress on November 18, 1988 and clearly not the law allegedly violated under Counts 1 and 2 and under the overt acts as included in Count 3(a) and (b). This misapplication of 21 U.S.C. Section 857 clearly illustrated an unlawful search and seizure during each application of the law on which the Indictments against the Defendants was based.

WHEREFORE, Defendants pray the Court grant their Motion for New Trial for all the reasons stated hereinabove.

BRIEF POINT I

The Court erred by excusing from further jury service the entirety of the selected petit jury (which may or may not have included alternate jurors) on December 7, 1990 in the case entitled *U.S. v. Goddard,* Criminal No. 90-101. The Court admitted in its Order dated December 14, 1990 its lack of authority under 28 U.S.C. Section 1866(c) to excuse the jurors (Order attached to Defendants' Motion for New Trial and incorporated by reference). While unknown to the Defendants, the Court's action created a seven day window during which time the excused jurors were removed from the jury panel and thereby eliminated their possible participation in the jury list as provided to Defendants on December 10, 1990. The Court's action was in violation of Defendants' right to receive a fair trial under the United States Constitution; denied each Defendant its right to a fair and impartial jury as provided by the Sixth Amendment and was in violation of the requirement for fundamental fairness under the Fourteenth Amendment.

As declared in 28 U.S.C. Section 1861, "It is the policy of the United States that all citizens in Federal Courts entitled to a trial by jury shall have the right to grand and *petit* juries selected at random from a fair cross section of the community" (emphasis added). Further, a Defendant is entitled to require that those charged with jury selection, including judges who excuse jurors, proceed in a

way as to compel calling of all eligible for jury duty. *U.S. v. Burkett,* 342 F.Supp. 1264. Due to the Court's removal of at least twelve individuals from the jury panel who were unable to arrive at a verdict, the process to compose a "reasonably representative" petit jury from the community was violated. The Court's action was a complete departure from the congressionally adopted scheme for jury selection. This panel of "hung jurors" comprised a distinct and cognizant group that was specifically excluded from the jury selection panel. This exclusion impaired the random nature or objectivity of the jury selection process. *U.S. v. Haley,* 521 F.Supp. 290 (11th Cir. 1981). The Defendants further state that the aforestated constitutional challenges can be asserted even if the Court finds that the particular jury drawn from the questioned pool was unobjectionable. *U.S. v. Jenison,* 485 F.Supp. 655 (11th Cir. 1979). For the reasons so stated, the Defendants would pray the Court grant each Defendants' Motion for a New Trial.

BRIEF POINT II

This Court was in error in applying an "objective" standard to items listed in 21 U.S.C. Section 857(*d*) as evidenced by jury instruction no. 37.

The Mail Order Drug Paraphernalia Control Act found at 21 U.S.C. Section 857 is based on the Drug Enforcement Agency's Model Act drafted by the Drug Enforcement Administration of the United States Department of Justice, August 1979.[1] The definitional difference

[1] The text of the Model Act, originally drafted as an amendment to the Federal Uniform Controlled Substances Act, is set

between the Model Act and 21 U.S.C. Section 857(d) is the later's modification of "intended for use" by the term "primarily" and the deletion of "used". The definition of drug paraphernalia found in the Model Act has been reviewed under facial constitutional attacks by ten different federal circuits[2] with some circuits having multiple challenges. The U.S. Supreme Court has not reviewed a Model Act case.[3] Each reviewing Federal Circuit Court has agreed that the definitions of drug paraphernalia are subjective in nature. The Courts have argued that "designed for use" refers to the intent of the designer or manufacturer while "intended for use" refers to the

forth in Annot., "Validity, Under Federal Constitution, of So-Called "Head Shop" Ordinances or Statutes, Prohibiting Manufacture and Sale of Drug Use Related Paraphernalia", 69 A.L.R. Fed 15 (1984 and Supp. 1989), and as an Appendix to this opinion.

[2] *Rose v. Nashua Board of Education,* 679 F.2d 229 (1st Cir. 1988), *Brache v. Weschester County,* 658 F.2d 47 (2nd Cir. 1981); *Mid Atlantic Accessories Trade Ass'n. v. State of Maryland,* 500 F.Supp. 834 (D.Md. 1980); *Tobacco Accessories and Novelty Craftsman Merchants Ass'n v. Treen,* 681 F.2d 378 (5th Cir. 1982); *Record Revolution #6, Inc. v. City of Parma, Ohio,* 709 F.2d 534 (6th Cir. 1983); *Camille Corp. v. Phares,* 705 F.2d 223 (7th Cir. 1983); *Casbah, Inc. v. Thone,* 651 F.2d 551 (8th Cir. 1981), cert denied, 455 U.S. 1005, 102 S.Ct. 1642, 71 L.Ed.2d 874 (1982); *Stoianoff v. Montana,* 695 F.2d 1214 (9th Cir. 1982); *Weiler v. Carpenter,* 695 F.2d 1348 (10th Cir. 1982), *Florida Businessmen for Free Enterprise v. City of Hollywood,* 673 F.2d 1213 (11th Cir. 1982).

[3] The Supreme Court denied certiorari in three Model Act cases, *Casbah, Inc. v. Thone,* 651 F.2d 551 (8th Cir. 1981), cert denied, 455 U.S. 1005, 102 S.Ct. 1642, 71 L.Ed.2d 874 (1982); *Brache v. Weschester County,* 658 F.2d 47 (2nd Cir. 1981); *Florida Businessmen for Free Enterprise v. City of Hollywood,* 673 F.2d 1213 (11th Cir. 1982).

intent of the retailer/distributor of items. Consistently the reviewing courts have found that the Model Act is applicable to a party charged in light of the circumstances of an alleged violation. To apply an objective standard, as done by this Court, would clearly permit the unconstitutional transfer of intent of a designer or manufacturer to a retail seller of goods.

This Court unconstitutionally transferred the manufacturer's intent to the defendant retailers in its jury instruction number 37. As a preface to the list of items found at 21 U.S.C. Section 857(d), the instruction stated "The following fifteen sets of items constitute drug paraphernalia". This was clearly in error. In *Camille Corp. v. Phares*, 705 F.2d 223 (7th Cir. 1983) the Court stated, ". . . the object is not classified as drug paraphernalia unless the scienter requirement of Section I(a)(1) is fulfilled". *Id.* at 230. The Fifth Federal Circuit went further by stating, "No item bears the stigma of drug paraphernalia under La.R.S. 40: 1033(A) & (B), absent the sellers intent that it be used with a controlled substance", *Tobacco Accessories and Novelty Craftsman Merchants Ass'n v. Treen*, 681 F.2d 378, 383 (5th Cir. 1982). See also *Murphy v. Matheson*, 742 F.2d 564 at 572 (8th Cir. 1981) (requiring intent of the person charged). Finally, in *Record Revolution #6, Inc. v. City of Parma, Ohio*, 709 F.2d 534 (6th Cir. 1983), the Sixth Federal Circuit proved the non-existence of drug paraphernalia "per se" by review of the definition itself.

> "The court finds that subsection (L) does not purport to define the listed items as drug paraphernalia 'per se' because the general definition of drug paraphernalia includes the phrases 'used, intended for use, or designed for use', which incorporate the criminal defendant's intent into the definition, and because the phrase 'such as' immediately precedes the list, the court finds that the listed items are cited only as examples of items which can be drug paraphernalia if the requisite intent is proved.".

With the *Parma* decision obviously in mind, the office of the Attorney General of Tennessee, in an opinion dated May 22, 1984, stated ". . . it is conceivable that a hoe, rake, pharmacist's bottle, or doggie bag could be deemed to be drug paraphernalia, *but only* if the item in question was shown to be used or intended for use in connection with controlled substances." One might say that nothing is drug paraphernalia but everything can be.

The list of items at 21 U.S.C. Section 857(d) is a suggested list of items that could be drug paraphernalia subject to the requisite intent being proven on the part of an accused. The list of items, therefore, are no more than a suggested guideline without which the law would be unconstitutionally vague.[4]

Most recently, the Southern District of Ohio revisited the issue of whether the suggestive list is a list of drug

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[4] Without the suggestive list, the law becomes devoid of guidelines, (see *Village of Hoffman Estates, Flipside Hoffman Estates, Inc.*, 455 U.S. 489, 102 S.Ct. 1186, 71 L.Ed.2 362 (1982), rehearing denied, 456 U.S. 950, 102 S.Ct. 2023, 72 L.Ed.2 476 (1982), and on remand, *Flipside, Hoffman Estates, Inc. v. Village of Hoffman Estates*, 688 F.2d 842 (7th Cir. 1982)). "Given the importance attached to such guidelines by the *Hoffman Estates* decision, plaintiff contends that the absence of such guidelines renders the West Carrollton ordinance invalid on vagueness grounds. The court must agree with plaintiff", *Philman's, Inc. v. City of West Carrollton*, 577 F.Supp. 1380 (S.D. Ohio 1983).

paraphernalia under a claim that the ordinance at issue violated the Sixth Amendment by establishing a classification of items as 'per se' drug paraphernalia and, thereby, removing the determination of whether or not something is paraphernalia from a judge or jury. The Court, at footnote 9, responds:

> "The Court deems this section of the Ordinance to create at most a rebuttable presumption. Moreover, no exemplar is 'drug paraphernalia' under the Ordinance, absent proof that it fits the general definition of 'drug paraphernalia', and absent proof that, in light of the enumerated factors (and other logically relevant factors), it is 'principally designed or marketed for use' (in the manner specified in the definition of each exemplar) with a controlled substance. Therefore, the Court holds that the items listed are not 'drug paraphernalia' *per se* and that the Ordinance is not unconstitutional on the ground."

Philmans, Inc. v. City of West Carrollton, 577 F.Supp. 1380 (S.D. Ohio 1983).

Numerous courts have looked at 21 U.S.C. Section 857 and have determined the appropriate view of items listed at subsection (d) are on a subjective basis. The Sixth Circuit Court of Appeals required "knowledge that there is a strong probability that [the items will be used illegally]", *U.S. v. 57,261 Items of Drug Paraphernalia*, 869 F.2d 955 (6th Cir. 1989), cert denied, 110 S.Ct. 324, 107 L.Ed.2 314 (U.S. 1989). This line of subjective review was adopted by the Western District of New York in *Ryers Creek Corp., d/b/a/ The Mill v. Steven McMartin, et al.,*

CIV-89-157T, April 20, 1989. In *U.S. v. Main Street Distributing, Inc.*, 700 F.Supp. 655, 667 (E.D.N.Y. 1988) the Court found the inclusion of the word "primarily in the scienter section of the statute, appears more likely to benefit than to burden a defendant, by narrowing the scope of the act." The Southern District of New York issued its Memorandum and Order in *U.S. v. Glass Menagerie, Inc.*, 702 F.Supp. 139 (Ky. 1988), which, among other items, reviewed the allegation that the scienter requirement is unclear in 21 U.S.C. Section 857 and raises the prospect that defendants could be convicted of a crime without any showing of intent.

> "This Court is reluctant to declare that this statute, directed as it clearly is against the 'head shops,' is void on its face and in all events as to everybody. At least as to the issue of whether the statute is unconstitutional as applied in other than a 'head shop' situation, and the subsidiary issue of whether Congress has now authorized the manufacturer of dual purpose glassware to be convicted of a federal felony not upon any showing of criminal intent on the part of the actor but only on some inference to be drawn as to the 'primary' intent of some group of unidentified future customers who will or may use the glassware in a nefarious fashion, movants seem to be on firmer ground."

S. 89 Cr. 325 [CLB] U.S.D.C. Southern District of New York (Sept. 6, 1989).

In light of the previously listed applications of 21 U.S.C. Section 857 and the consistent finding of the subjective nature of the law, only one Court has previously found the federal law to be objective in nature. (See *U.S.*

v. Dyer, et al., Criminal No. 90183-A, U.S.D.C. for the Eastern District of Va., Sept., 1990).

BRIEF POINT III

The Defendants have asked that the Court set aside their convictions on Counts IV, V and IX and specifically calls to the Court's attention that those counts involve the allegations that the Defendants were engaged in the aiding and abetting of certain individuals in the manufacture and distribution of cocaine a schedule II controlled substance. That allegation is the predicate act for Counts V and IX and forms the basis of allegations contained in Count IV as well.

In Count IV the Defendants were charged with specifically, knowingly and intentionally aiding and abetting Randy Kennedy in the manufacture and distribution of cocaine between November 4, 1989 up to and including November 25 of 1989.

The Defendants call to the Court's attention that there was no evidence from Randy Kennedy whatsoever that he ever dealt with, saw, or purchased any substance from these Defendants during the period of time alleged in Count IV in the indictment. In addition, the Court will recall that the testimony was unequivocal at least as to George Michael Moore, that Randy Kennedy never saw him, dealt with him, talked to him nor, did the Defendant aid Randy Kennedy in any respects in the manufacture and/or distribution of cocaine whatever. In fact, with respect to aiding and abetting and the distribution and manufacture of cocaine, there isn't any evidence from any person whoever indicated that Defendants knowingly

and intentionally did any act which would have aided and abetted the knowing and intentional manufacture and distribution of cocaine.

In fact, as to Defendant George Michael Moore no witness on behalf of the Government who sold or distributed drugs and appeared at the trial hereof ever testified that George Michael Moore ever sold them anything. As to both of these Defendants, the record is clear. There is no evidence that exists nor was any propounded which would indicate that the Defendants had any specific knowledge or any intention whatever to aid and abet in the manufacture and/or distribution of cocaine.

The Court's attention is respectfully called to *United States of America v. Philip William Pace*, a case which was decided on the 18th of December of 1990 by the Eighth Circuit. A copy of the opinion is attached hereto and by this reference made a part hereof. In the *Pace* case, the evidence against the Defendant was far more onerous and compelling than the case at bar. In the *Pace* case the Defendant was the driver of the station wagon which was traveling from Los Angeles to Chicago. It was not the first trip for Mr. Pace. Mr. Pace was stopped for speeding and upon a search, 200 pounds of cocaine was found in the vehicle. That cocaine was in kilograms of bricks and were found in two duffle bags in the floorboard of the back seat, a duffle bag in the cargo area and a suitcase in the cargo area. Another vehicle was following Pace and his companion, Mason, and had been for the past day and one-half when Pace and Mason were arrested. That vehicle was a black van with two people in it, one of whom was a Columbian. Pace was told by Mason that the reason

that the van was making the trip with him was none of his business and wasn't any of his concern.

Pace was acquitted of conspiracy but convicted of possession with the intent to distribute cocaine. The Eighth Circuit reversed and held that under those circumstances the evidence was insufficient to justify a reasonable inference that Pace knew he was driving a car full of cocaine. The Court held that there wasn't sufficient evidence on the record to support a guilty verdict. The opinion was written by Justice Arnold with Justice Fagg concurring. Justice Magill dissented and laid out all of the facts showing all of the inferences that are readily apparent from it.

Defendants here believe that the *Pace* case is square on point. It is a case dealing with guilty knowledge and proof thereof. The facts of the *Pace* case are far more compelling against Defendant Pace than the facts in this case against Defendants Acty and Moore.

A fair understanding of all of the evidence and looking at it in the light most favorable to the Government, discloses without contradiction that not one witness, be it Randy Kennedy, Mr. Searles or any other person ever testified that either of these Defendants knew and intentionally sold any substance which they knew and intended the aiding and abetting of those individuals in the manufacture and distribution of cocaine.

This Court should grant the Defendants' motions with respect to Courts IV, V and IX.

The Defendants have seriously contested the existence of sufficient proof by the Government as to any

specified unlawful activity as an underpinning for the submission to the jury of the money laundering counts in this case.

As a minimum, it is clear by everyone's account that no allegation of a drug paraphernalia violation prior to November 18, 1988 under 21 U.S.C. Section 857 can serve as the predicate for a violation of either 18 U.S.C. Section 1956 or Section 1957. This is so since until November 18, 1988, violations of 21 U.S.C. Section 857 were not a specified unlawful activity under either of the aforementioned money laundering statutes. See *1988 Amendment to 18 U.S.C. Section 1956, Publ. L. 100-690 Section 6466.*

The alleged violations of 21 U.S.C. Section 1957 (Counts 7 and 8) are subsequent to November 18, 1988. However, there was no showing in this record that the proceeds used in those transactions were criminally derived from specified unlawful activity.

Count 7 (an alleged violation of 21 U.S.C. Section 1957) involved the acquisition of an automobile. The Government's own records (Exhibits 196-204) evidenced that the monies used for the purchase were a repayment of a documented loan transaction between Defendant Moore and the corporation.

Further, the record in this case reveals an abundance of evidence of untainted funds in the individuals and corporations hands.

Defendants' Exhibit ___ reveals the large dollars generated in World Wide Imports through the sale of art.

Testimony revealed the same. In addition, the Government's own proof through the trial revealed funds coming into the corporate account as a result of loans, individual repayments of loans, interest income, rentals, etc.

Simply put, for all the reasons advanced herein, the Government made no showing (absent speculation) that the transactions involved in Counts 7 and 8 were in criminally derived property and that said criminally derived property came from a specified unlawful activity.

The best of the Government's proof, taken in its best light, is that some unspecified amount of money derived from the sale of items deemed to be drug paraphernalia was from time to time present in the account of World Wide Imports. There is absolutely no showing as to what those amounts were, whether those amounts, if any, were a part of the proceeds used to purchase the automobile (Count 7) or the Dean Witter fund (Count 8), or indeed what amounts, if any, were derived after November 18, 1988.

Although involving the separate laundering statute of 18 U.S.C. Section 1956, the deficiencies in the Government's proof on Count 6 are the same as those with Counts 7 and 8. In short, there is no showing whatsoever as to the source of the *proceeds* involved in the transaction complained of in Count 6.

Additionally, since Count 6 alleges a violation of 21 U.S.C. Section 1956(a)(1)(A)(i), it was incumbent on the Government to establish that the financial transaction conducted in the instance alleged in Count 6 was "with

the intent to promote the carrying on of specified unlawful activity." See 21 U.S.C. Section 1956(a)(1)(A)(i). The best the Government has to show for their efforts in that regard is that monies were spent out of the account of World Wide Imports for the purchase of items from an unindicated manufacturer and distribution company which sold numerous items, some of which were alleged to be drug paraphernalia. Given the fact that the evidence establishes that the distribution company sold many more items than those considered by the Government to be drug paraphernalia, it seems logical to assume that the Government would have the burden to show that the funds dispersed went for drug paraphernalia items, otherwise the transaction would not serve to "promote the carrying on of unlawful activity." This the Government failed to prove. Absent the jury guessing as to what was purchased, there is nothing.

The Court's submission of Count 9 raises issues both identical to those raised by Defendants concerning Counts 6, 7 and 8 and additional ones as well.

Count 9, charging a conspiracy to money launder under 18 U.S.C. Section 1956, was not proven in several respects.

First, since Count 9 alleges that the conspiracy to launder money occurred between January 21, 1987 and March 28, 1990, the questions raised as to the source of the proceeds, the use of the proceeds, etc. are precisely those raised by Defendants in their objections to Counts 6, 7 and 8.

In addition, the method of the charge in Count 9 obligates the Government to prove that the transactions

complained of in the conspiracy involved proceeds from both types of specified unlawful activity alleged, to wit: violation of 21 U.S.C. Section 857(a) and 21 U.S.C. Section 841(a)(1). The Government alleged, simply, that the illegal transaction involved proceeds from both drug paraphernalia violations and drug violations.

The Government specifically elected in Count 9 to charge that the Defendants to the conspiracy conducted the complained of transactions not just to promote the specified unlawful activity but, also, with the intent to disguise the nature, location, source, ownership and control of the proceeds. (See 18 U.S.C. Section 1956(a)(1)(B)(i)).

The Government alleged that in furtherance of the conspiracy charged, the Defendants, or one of them, committed at least one of three overt acts. Alleged Overt Act (a) is really Count 7. Alleged Overt Act (b) is really Count 8. Alleged Overt Act (c) is a $45,000 transaction occurring on September 25, 1988, which predates the applicable date of 18 U.S.C. Section 1856 to violations of 21 U.S.C. Section 857.

Remembering that the Government has alleged in Count 9 that the transactions in the conspiracy were done both to promote the specified unlawful activity and with the intent to disguise, etc., it would be helpful to analyze the proof at trial as to each act.

It can hardly be argued that on March 25, 1989 an automobile was purchased (Overt Act A) to promote any specified unlawful activity. Equally clear is the fact that Chris Acty's depositing $100,000 in a money market fund

(Overt Act B) has nothing to do with promoting any specified unlawful activity.

Overt Act (C) is a transaction (September 25, 1988) predating the effective date of specified unlawful activity including violation of 21 U.S.C. Section 857(a). Even without that absolute prohibition, there wasn't anything about that transaction that could, in any way, be seen to promote the specified unlawful activity.

Since the Government alleged in the conjunctive, the illegal purposes of the transaction, and inasmuch as there exists no proof that any act was done in an effort to promote the specified unlawful activity, the Court should conclude that the Government's proof has wholly failed.

If the Court concludes that in this instance even though a necessary element was alleged in the conjunctive it can be proved in the disjunctive, that proof failed as well.

Out of all that is unclear and muddled in this case, the one clear fact is that there existed no proof whatsoever that either Defendant in any way, shape, or form attempted to conceal and disguise the nature, location, source, ownership and control of any proceeds. The contrary is clear. The Government was literally able to reconstruct with actual records of the Defendants and the corporations an accounting as to where literally every dollar earned went. In no instance were phony names or accounts used. No straw person was employed. No hidden transaction surfaced. Even the Government's witness Semesky conceded that there was nothing out of the ordinary or suspicious about any of the transactions. His complaint was limited to the source of the funds.

The mental image one gets from the term "money laundering" is literally the equivalent of its statutory definition. They both involve activity that quite simply is intended to hide and alter and deceive. It didn't happen here.

Additionally, over timely objection, the Government was alleged to elicit opinion evidence from Donald Semesky to the effect that the monetary transaction of the Defendants violated the provisions of 21 U.S.C. Sections 1956 and 1957. Those opinions were impermissible legal conclusions. *Shahid v. City of Detroit,* 889 F.2d 1543 (6th Cir. 1989). In addition to his expression of these impermissible legal conclusions, the stated basis for his conclusions involved conclusions of law. For in addition to his expert opinion that the Defendants' actions constituted money laundering, he offered as his basis for that opinion that a violation of 21 U.S.C. Sections 1956 and 1957, was complete when the money was deposited from the business to the account of World Wide Imports.

In addition to the expression of impermissible legal conclusions, the testimony of the witness Semesky should not have been permitted because it was of no aid to the jury and served only to unduly emphasize and stamp with the approval of an expert, the Government's theory.

Although an objection that an opinion deals with the ultimate issue is not sufficient anymore, the opinion must aid the jury. *Zimmer v. Miller Trucking Co.,* 743 F.2d 601 (8th Cir. 1984):

> "Specialized knowledge was not necessary in this case. With the facts and circumstances of the accident before it, the jury was competent to make a decision without superfluous expert opinion evidence."

Also see *Otwell v. Motel 6, Inc.,* 755 F.2d 665 (8th Cir. 1985).

In the instant case, the jury had before it each and every item of documentary evidence, testimony and demonstrative evidence imaginable laying out each and every monetary transaction the Defendants had engaged in over the last several years.

It was for the trier of fact to review and consider that evidence to determine whether (1) the financial transactions promoted any specified unlawful activity and (2) the transactions they can see themselves were intended to conceal and disguise . . .

To hold otherwise would, under these facts, be tantamount to allowing every case to be decided by experts. Simply recite the facts as one understands them and ask the expert whether or not the Defendant violated the statute.

LAW OFFICES OF
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ATTORNEYS FOR DEFENDANTS

Copy to:

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Assistant U.S. Attorney
115 U.S. Courthouse
East First and Walnut
Des Moines, Iowa 50309

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing was

_ personally delivered

X mailed

upon all parties to the above-entitled cause at their respective addresses on the 4th day of February, 1991.

/s/ Pam Hatfield

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA, Plaintiff, vs. POSTERS 'N THINGS LTD., and Iowa Corporation, d/b/a WORLD WIDE IMPORTS, d/b/a FORBIDDEN FRUIT, d/b/a ACTY-MOORE GALLERY; GEORGE MICHAEL MOORE, a/k/a MIKE MOORE, d/b/a G. MICHAEL MOORE ENTERPRISES; and LANA CHRISTINE ACTY, a/k/a CHRIS ACTY, Defendants.	)	CRIMINAL NO. 90-33 RULING ON DEFENDANTS' MOTIONS FOR NEW TRIAL AND JUDGMENT OF ACQUITTAL (Filed 91 MAR 21)

Jury trial in this case ended with verdicts returned by the jury on December 28, 1990, finding guilty the defendants charged in Counts 1 through 9 of the Second Superseding Indictment. (Not all counts charged both defendants with criminal conduct.) Before the court for ruling are the defendants' motions for new trial and judgment of acquittal notwithstanding the verdicts. The court concludes the motions are without merit. The motions are denied.

Before trial defendants challenged the charges in the indictment by filing motions to dismiss that were denied. During trial defendants challenged much of the government's evidence, presented evidence that was excluded,

and excepted to the jury instructions and the court's failure to give their proposed jury instructions.

At the close of the government's case, and after all parties rested, the defendants moved for judgment of acquittal as to each of the nine counts of the indictment.

The court has now reviewed its rulings on evidentiary issues and confirms its previous rulings. The court has reviewed the jury instructions and concludes they were not flawed. The court overrules the motion for new trial to the extent that it is based on allegedly erroneous jury instructions and assigned errors in the receipt or exclusion of evidence. To the extent the motion for new trial raises the same issues that were previously presented before trial or during trial, the motion is denied for the reasons given for previous rulings.

The court submitted this case to the jury because it concluded the evidence was sufficient for reasonable jurors to find each defendant guilty as charged on the nine counts of the indictment. Because the evidence was sufficient, the court overrules the defendants' motion for judgment of acquittal notwithstanding the verdict. In making this ruling, the court applies the principles governing motions for directed verdict that were recently explained in *United States v. Pace*, decided by the Court of Appeals for the Eighth Circuit on December 18, 1990, at pages 7-8 of that opinion. Defendants argue that case supports their motion for judgment of acquittal, but the court finds *Pace* inapposite, sharing little in common with the facts in this case.

One additional issue presented in the defendants' motion for new trial deserves further comment. Defendants contend that they were deprived of a fair jury trial because twelve persons on the petit jury panel as of December 7, 1990, were excused from further jury service after completing their service in the case of *United States v. Goddard*, Criminal No. 90-101. This court's record made in the *Goddard* case, and its order entered in that case on December 14, 1990, explain that the twelve jurors were excused from further service after being unable to reach a verdict in the *Goddard* case. The case would have been retried, and the court and counsel in that case thought it best that the jurors not be in the array of jurors for the retrial. Although the parties and counsel in the *Goddard* case were consulted before those twelve jurors were excused from further jury service, the court subsequently learned from consultation with Chief Judge Harold D. Vietor that a proper record had not been made. Consequently the undersigned judge entered the order of December 14, 1990 (Exhibit "A" attached to defendants' motions here), returning those jurors to the list of jurors available for further jury service in this case.

The undersigned judge acknowledged in the December 14 order its error in excusing the *Goddard* jurors without making a proper record. But the *Goddard* jurors were excused after the clerk of court had already selected the jury panel to report for this *Posters 'N Things* case. The *Goddard* jurors were not included in that panel. Because the jurors selected for participation in this case were selected before this court excused from further service the *Goddard* trial jurors, the defendants have failed to demonstrate that this court's order in the *Goddard* case adversely

affected them in any way. Passing the question whether defendants in this case properly and timely raised this objection (*see* 28 U.S.C. §§ 1866-67), the court concludes that defendants have failed to demonstrate they were deprived of a fair jury array or fair jury trial in this case. It is plain that none of the twelve jurors excused on December 7, 1990, would have been in the jury array even if the court had not excused them on that day.

For the reasons presented in ruling on previous motions, objections, and exceptions before and during the trial, the court denies defendants' motions for new trial and for judgment of acquittal notwithstanding the verdict.

IT IS SO ORDERED.

Dated this 21st day of March, 1991.

/s/ Charles R. Wolle
CHARLES R. WOLLE, JUDGE
UNITED STATES DISTRICT COURT

UNITED STATES DISTRICT COURT

SOUTHERN District of IOWA

UNITED STATES OF AMERICA V. POSTERS' N THINGS LTD., an Iowa Corporation, (Name of Defendant)	**JUDGMENT IN A CRIMINAL CASE** **(For Offenses Committed On or After November 1, 1987)** Case Number: Cr. 90-33-01 (Filed June 11, 1991) Robert T. Vaughn Defendant's Attorney

THE DEFENDANT:

[ ] pleaded guilty to count(s) _____

[x] was found guilty on count(s) 1, 2 and 3 after a plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offenses:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
21:857(a)(1)	Use interstate conveyance for sale drug paraphernalia	8-17-89	1 & 2
18:371	Conspiracy to use interstate conveyance for sale of drug paraphernalia	3-28-90	3

The defendant is sentenced as provided in pages 2 ~~through~~ _____ of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

[ ] The defendant has been found not guilty on count(s) _____, and is discharged as to such count(s).

[ ] Count(s) _____ (is)(are) dismissed on the motion of the United States.

[x] It is ordered that the defendant shall pay a special assessment of $ 600.00, for count(s) 1, 2 and 3, which shall be due [x] immediately [ ] as follows:

IT IS FURTHER ORDERED that the defendant shall notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Defendant's Soc. Sec. No.:

Defendant's Date of Birth:

Defendant's Mailing Address:

_____

_____

Defendant's Residence Address:

_____

_____

cc: to Customs, IRS, Postal

June 7, 1991
Date of Imposition of Sentence

/s/ Charles R. Wolle
Signature of Judicial Officer

CHARLES R. WOLLE,
U.S. DISTRICT JUDGE
Name & Title of Judicial Officer

June 11, 1991
Date

FINE

The defendant shall pay a fine of $ 75,000.00. xxx

[x] This amount is the total of the fines imposed on individual counts, as follows:

Counts 1, 2 and 3. $75,000.00 on each count, ordered concurrently.

* * *

This fine plus any interest required shall be paid:

[ ] in full immediately.

[x] in full not later than July 1, 1991, unless notice of appeal is filed, then within ten (10) days after final judgment is entered on the sentence following decision or other disposition of the appeal.

Interest will be payable from July 1, 1991 until paid in full.

* * *

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. § 3614.

UNITED STATES DISTRICT COURT

SOUTHERN **District of** IOWA

UNITED STATES OF AMERICA

V.

LANA CHRISTINE ACTY
(Name of Defendant)

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

Case Number:
Cr. 90-33-03
(Filed June 11, 1991)
Robert T. Vaughn
Defendant's Attorney

THE DEFENDANT:

[ ] pleaded guilty to count(s) _____

[x] was found guilty on count(s) 1, 2, 3, 4, 5, 6, 7, 8 and 9 after a plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offenses:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
21:857(a)(1)	Use interstate	8-17-89	1
" "	conveyance for sale drug paraphernalia	11-8-89	2
18:371	Conspiracy to use interstate conveyance for sale of drug paraphernalia	3-28-90	3 & 9

21:841(a)(1) and 18:2	Aid & abet manufacture & dist. cocaine	11-25-89	4
21:854	Investment of illicit drug profits	3-28-90	5
18:1956 (a)(1)(A)	Laundering monetary instruments	11-8-89	6
18:1957& 18:2	Engage in monetary trans. in prop. derived spec. unlawful activity	3-25-89 2-9-90	7 8
" "			

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

[ ] The defendant has been found not guilty on count(s) _____, and is discharged as to such count(s).

[ ] Count(s) _____ (is)(are) dismissed on the motion of the United States.

[x] It is ordered that the defendant shall pay a special assessment of $ 450.00, for count(s) 1, 2, 3, 4, 5, 6, 7, 8 and 9, which shall be due [x] immediately [ ] as follows:

IT IS FURTHER ORDERED that the defendant shall notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Defendant's Soc. Sec. No.:
578-64-2213

Defendant's Date of Birth:
12/12/48

Defendant's Mailing Address:

3500 Eula Drive
Urbandale, Ia 50312

Defendant's Residence Address:

June 7, 1991
Date of Imposition of Sentence

/s/ Charles R. Wolle
Signature of Judicial Officer

CHARLES R. WOLLE,
U.S. DISTRICT JUDGE
Name & Title of Judicial Officer

June 11, 1991
Date

cc: Customs, IRS, Postal

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 108 months on each of counts 1, 2, 3, 4, 5, 6, 7, 8 and 9 to run concurrently with each other.

* * *

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of five (5) years.

While on supervised release, the defendant shall not commit another federal, state, or local crime and shall not illegally possess a controlled substance. The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). If this judgment imposes a restitution obligation, it shall be a condition of

supervised release that the defendant pay any such restitution that remains unpaid at the commencement of the term of supervised release. The defendant shall comply with the following additional conditions:

[x] The defendant shall report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

[ ] The defendant shall pay any fines that remain unpaid at the commencement of the term of supervised release.

[x] The defendant shall not possess a firearm or destructive device.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state or local crime. In addition:

1) the defendant shall not leave the judicial district without the permission of the court or probation officer;

2) the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;

3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;

4) the defendant shall support his or her dependents and meet other family responsibilities;

5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;

6) the defendant shall notify the probation officer within 72 hours of any change in residence or employment;

7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;

8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;

9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;

10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;

11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;

12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;

13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the

probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

FINE

The defendant shall pay a fine of $ 150,000.00. The fine includes any costs of incarceration and/or supervision.

* * *

This fine plus any interest required shall be paid:

[ ] in full immediately.

[x] in full not later than July 1, 1991, unless notice of appeal is filed then within ten (10) days after final judgment is entered on the sentence following decision or other disposition of the appeal. Interest will be payable from July 1, 1991 until paid in full.

* * *

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. § 3614.

STATEMENT OF REASONS

[ ] The court adopts the factual findings and guideline application in the presentence report.

OR

[x] The court adopts the factual findings and guideline application in the presentence report except (see attachment, if necessary): As stated on the record at sentencing. In summary, the Court finds that $1,500,000 of the defendant's moneys laundered

were the proceeds of an unlawful activity under guideline 2S1.1(b)(2). The amount of cocaine attributable to defendant under count IV, aiding and abetting, is 100 kilograms of cocaine, consisting of the dilutants sold by defendant and cocaine mixed in by others.

Guideline Range Determined by the Court:

Total Offense Level: 31 (By reason of grouping with departure explained below)

Criminal History Category: I

Imprisonment Range: 108 to 135 months.

Supervised Release Range: ___ ~~to~~ 5 years

Fine Range: $ 15,000 to $ 150,000

[ ] Fine is waived or is below the guideline range, because of the defendant's inability to pay.

Restitution: $ --------

[ ] Full restitution is not ordered for the following reason(s):

[ ] The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.

OR

[ ] The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reason(s):

OR

The sentence departs from the guideline range

[ ] upon motion of the government, as a result of defendant's substantial assistance.

[x] for the following reason(s): As stated on the record at sentencing. In summary, the Court departs pursuant to Policy Statement 5K2.0 by not including in the grouping of counts the aiding and abetting conviction under count IV. The Court finds that the Sentencing Commission, in determining the appropriate range for aiding and abetting sale and manufacture of controlled substances, did not have in mind nor adequately provide a lower range for the type of circumstances involved here. This is essentially a drug paraphernalia and money laundering case, not a case of aiding and abetting a specific act of manufacturing or distributing controlled substances. The heartland is the range provided by the guidelines for money laundering in connection with sale of drug paraphernalia, not the aiding and abetting of manufacture and sale of cocaine.

UNITED STATES DISTRICT COURT FOR
SOUTHERN DISTRICT OF IOWA

NOTICE OF APPEAL

United States of America, Plaintiff,
vs.
Lana Christine Acty, Defendant.

Criminal No. 90-33
District Court Docket No.

Charles R. Wolle
District Court Judge

(Filed June 18 1991)

Notice is hereby given that Lana Christine Acty appeals to the United States Court of Appeals for the Eighth Circuit from the:

[X] Judgment & Commitment
[ ] Order _____
Specify

entered in this action on June 7, 1991.
Date

/s/ Robt. T. Vaughn
Signature of Defendant's Counsel

1126 Eastdale Avenue
Street Address Room No.

Nashville Tennessee 37216
City State Zip Code

Robert Thomas Vaughn
Typed Name of Counsel

(615) 228-9422
Telephone Number

408-88-0558
Social Security Number
(For all CJA compensation)

June 13, 1991
Dated

TRANSCRIPT ORDER FORM

TO BE COMPLETED BY ATTORNEY FOR APPELLANT.*

[X] Please prepare transcript of
- [ ] Pre-trial proceedings
- [X] Testimony or
- [X] Portions thereof
- [X] Sentencing
- [X] Post-trial proceedings
- [ ] Other _____

[ ] I am not ordering a transcript:
Reason:
- [ ] Previously filed.
- [ ] Other _____

CERTIFICATE OF COMPLIANCE

Appellant hereby certifies that copies of this notice of appeal/transcript order form have been filed/served upon U. S. District Court, court reporter, and all counsel or record, and that satisfactory arrangements for payment of cost of transcripts ordered have been made with the court reporter. (FRAP 10(b)). Method of payment: [X] Funds/client cash [ ] CJA Form 24, completed and attached.

Attorney's signature /s/ Robt. Vaughn
Date June 13, 1991

* NOTE: Complete all items on reverse side.

INFORMATION SHEET

TO BE COMPLETED BY ATTORNEY FOR APPELLANT.

1. Defendant's Address: 3500 Eula Drive, Urbandale, Iowa 50322

2. Date of Verdict: December 28, 1990 Jury X
   Nonjury_____

   Offenses: 18 USC 2, 18 USC 371, 18 USC 1956 (a)(1)(A), 18 USC 1957, 21 USC 841 (a)(1), 21 USC 857, 21 USC 857 (a)(1)

   Trial Testimony
   Number of Days 13 Bail Status: $25,000.00

3. Sentence and Date Imposed: Guilty to complete 9 count indictment with defendant to serve 108 months, $150,000 fine, 5 year probation; June 7, 1991

4. Date Trial Transcript Ordered by Counsel or District Court: June 13, 1991

   Stenographer in Charge (Name Address, and Telephone No.): Susan Klus, 606 First Interstate Bank Building, Des Moines, IA 50309; (515) 243-6596

5. Trial Counsel was [ ] appointed. [X] retained.

   Does Defendant's financial status warrant appointment of counsel on appeal? No

   Affidavit of financial status filed: N/A

   Is there any reason why trial counsel should not be appointed as counsel on appeal? N/A

6. Assistant United States Attorney and His FTS Number: Lester A. Paff; FTS # 8626257

* * *

COURT REPORTER ACKNOWLEDGMENT

_____
Date Order Received

_____
Estimated Completion Date

_____
Estimated No. Pages

_____
Court reporter's signature

_____
Date

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543

WILLIAM K. SUTER
CLERK OF THE COURT

AREA CODE 202
479-3011

March 8, 1993

Alfredo Parrish, Esq.
3939 Grand Avenue
Des Moines, Iowa 50312

Re: 92-903 – Posters 'N' Things, Ltd., et al. v. United States

Dear Mr. Parrish:

The Court today entered the following order in the above stated case:

"The petition for a writ of certiorari is granted."

Enclosed are Memoranda describing the time requirements and procedures under the Rules, together with a Specification Chart for your use. Also, enclosed is a recently published guide to assist you in preparing your case before this Court.

Although these cases will not be argued this Term, please note that the Court prefers to have the cases briefed prior to its recess in June.

If you have any questions, please feel free to telephone me.

Very truly yours,

WILLIAM K. SUTER, CLERK

/s/ Sandy Nelsen
Sandy Nelsen
Assistant Clerk

Enclosures